BARRIERS TO ADOPTION

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

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BARRIERS TO ADOPTION

THURSDAY, JUNE 27, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 1:13 p.m., in room 1100, Longworth House Office Building, Hon. E. Clay Shaw, Jr. (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
June 20, 1996
No. HR-12

CONTACT: (202) 225-1025

Shaw Announces Hearing on Barriers to Adoption

Congressman E. Clay Shaw, Jr. (R-FL), Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on barriers to children being placed for adoption. **The hearing will take place on Thursday, June 27, 1996, in the main Committee room, 1100 Longworth House Office Building, beginning at 1:00 p.m.**

Oral testimony at this hearing will be heard from invited witnesses only. Witnesses are expected to include Members of Congress, foster parents, scholars, and program administrators. Mr. Dave Thomas, founder of Wendy's International and Chairman Emeritus of Wendy's Board of Directors, will also testify. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) requires that "reasonable efforts" be made to keep children with their parents prior to the placement of a child in foster care, both to prevent or eliminate the need for removal of the child from his family and to make it possible for the child to return to his family. A central goal of Congress in creating the "reasonable efforts" provision was to reduce the likelihood that children would be inappropriately removed from their parents. However, there have been some unintended consequences of this legislation. In several well-publicized cases, it is clear that children were abused, damaged, or even killed when State departments of child welfare, in attempting to meet the "reasonable efforts" mandate, left or returned these children to abusive families. Witnesses have testified before the Subcommittee in the past that the "reasonable efforts" provision plays some role in children being left with or returned to maltreating families. In addition, the way in which the "reasonable efforts" provision is actually implemented in many States may be a barrier to children being placed for adoption. Since many States now use intensive family preservation programs as a way of keeping families together, the Subcommittee is interested in learning more about the success of these programs.

In announcing the hearing, Chairman Shaw stated: "Removing barriers to adoption is an important means of addressing the crisis of the nation's child welfare system. While many families can and should be preserved, there are some families and caretakers that cannot be rehabilitated. In these cases we must find caring, loving, and permanent families for children who need them."

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement, with their address and date of hearing noted, by the close of business, Thursday, July 11, 1996, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B-317 Rayburn House Office Building, at least one hour before the hearing begins.

(MORE)

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are now available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS_MEANS/' or over the Internet at 'GOPHER.HOUSE.GOV' under 'HOUSE COMMITTEE INFORMATION'.

*****

Chairman SHAW. If our guests and Members could take their seats, we will start with today's hearing.

I have a brief opening statement that I would like to read, and then we will yield to our Ranking Democratic Member, Mr. Ford, for whatever comments he would care to make.

Most of the hearings of this Subcommittee conducted over the last 18 months have directly related to legislation, usually welfare reform. As a result, our hearings have tended to be slightly partisan. Now that is perhaps an understatement.

Today's hearing is very different, I am most glad to say. This is truly an exploratory hearing, and it is about a subject that we all deeply care about.

It seems that nearly everyone agrees that adoption is one of the wonderful inventions of human society. Adoption ensures that children are raised by loving parents in most cases. As if we need confirmation that adoption works, social research has produced several studies showing that adoption is indeed good for children. Adoption has the promise of being one of the means of solving the serious problems that bedevil our children and our child welfare system.

Reports of child abuse have increased enormously in the last decade. More children are in foster care. And yet paradoxically fewer children are being adopted out of foster care.

If children are to be adopted, we must go through the most difficult and permanent of legal steps, terminating parental rights. Here, society and government confront a vexing question: How much help and assistance should we provide, and for how long before we take steps that will allow children to be adopted?

The key issue here can be summarized in one word, and that word is "time." While society tries to help parents with problems, the clock is ticking on their child's development, and the child is holding in a kind of development limbo.

So, we are presented with the difficult task of making decisions that would test Solomon.

In 1980, Congress passed a law that created the outlines of the current child protection system. It was a good law. Even I would go so far as saying, it is an excellent law.

The Subcommittee is fortunate today to have one of that law's prime authors, George Miller, here to testify.

The 1980 law required States that used Federal dollars to have clear plans for children removed from their homes, to provide timely services, and to get children in permanent placements as soon as possible.

Until sometime in the mideighties, the new law and the State programs based on the law seemed to be working. We know that the number of children in foster care and probably the length of time in foster care, both were declining.

But then, perhaps because of crack cocaine and other illegal substances, the rolls exploded, and the length of time in foster care grew, and children started entering foster care at younger ages.

It appears that in most States the foster care rolls have now stabilized, although at a very high level. This stability provided us with the opportunity to evaluate the 1980 legislation without the pressure of rapidly increasing caseloads.

Even so, we do have some problems. Adoption out of foster care has declined. Only about 8 percent of the children in foster care in a given year are adopted. Meanwhile many experts believe that as many as half of the children who return to their parents from foster care are re-abused and wind up in foster care once again.

So, the purpose of today's hearing is to see whether there needs to be Federal action to promote adoption. The issue we have heard most about in previous testimony is reasonable efforts. Title IV–E of the Social Security Act requires States to make reasonable efforts to prevent or eliminate the need for removal of children from their homes and to make it possible for them to return home.

"Reasonable efforts" have not been defined either in Federal statute or in regulations. Perhaps for this reason, "reasonable efforts" have been the target of several court cases, especially the famous *Suter* v. *Artist M.* case. But we still do not know what "reasonable efforts" means and at what point the efforts to preserve the family become unreasonable by placing the children at risk of reabuse.

It is not surprising, then, that some States may be finding it difficult to meet a standard that is not defined. The worst result of this situation may be that States are reluctant to terminate parental rights, even in appropriate cases.

We have invited witnesses to present testimony on whether the current system of balancing the rights of biological parents and the needs of children is working. We will hear both good things and bad things about the child protection system and about reasonable efforts.

We have also invited witnesses who have expertise in and ideas about how Federal and State governments can promote adoption.

After hearing this testimony and considering other sources of information, it will be up to us on this Committee and in this Congress to decide whether Federal action is necessary, and if so, what action to take.

I will now yield to the gentleman from Tennessee, Mr. Ford, for any remarks he might wish to make.

Mr. FORD. Thank you very much, Mr. Chairman.

And I, too, am pleased that we are taking time this afternoon to take another look at our Nation's child welfare and foster care programs. These programs care for some of the most at-risk and most injured children who live in America today.

Anything that we can do to make certain that States design the best programs, recruit the most qualified staff, and make a positive difference in the lives of each and every child who crosses their paths, then we should do so here today with these witnesses.

Unfortunately, there is considerable evidence that we are not doing all that we can. Too often we read about the nightmarish experience of a child who needed our protection, whether the mistake was not removing the child from a dangerous situation or reuniting a family that was not ready to cope with the matter.

What matters is that each child should get precisely the right intervention. I have been around these hearings and been around here in the Congress long enough to know, Mr. Chairman, that this is easier said than done.

Families and the problems they face are complicated. Resources are tight. What works for one family might be a complete failure

for another family. And in large measure, success is dependent upon a well-trained, sensitive worker who shoulders incredible burdens and whose light burns out quickly.

But we must make sure that we have legislation that focuses on some of the problems that we know exist as it relates to barriers for adopting kids.

We should devote our energy to creating a system that encourages adoption where appropriate, but also gives families the wide array of services that they need to stay together.

Mr. Chairman, I join with you today and the three panel of witnesses who are testifying before this Committee and hopefully we can say that we are not going to just express outrage, but we are really going to try to address the problems. We know that the temptation is to look at the wide array of problems and blame an easy target. Let us move away from finger pointing and toward problem solving.

We have had witnesses who have testified before this Subcommittee in the past, but we have not been able to move in the direction of protecting children and removing adoption barriers.

Mr. Chairman, I join with you today and join with my colleagues on this Subcommittee to say that all of the catchy slogans and that all of the sensationalism is fine, but I think it is now time for us to move and take some action in a bipartisan way that can bring real legislation that will respond to the real needs of those children who are in need of parents, who are in need of protection, and who are in need of loving homes.

Thank you, Mr. Chairman.

Chairman SHAW. Thank you, Mr. Ford.

Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman. I would like to associate myself with your remarks.

This is an exploratory hearing on the impact that Federal regulations and guidelines have had on adoption, and I know the witnesses appearing today are here to describe their experiences and offer their insights on adoption in America.

And while we listen to the testimony, we should remember that the focus of these hearings is the children and what we can do ensure that they grow up and become mature in a safe and healthy environment. And today's children face a host of problems outside the home. They encounter drugs, alcohol, crime, and disease, which often have devastating consequences on children and families.

Specifically we will hear testimony on the devastating impact that drugs have had on parents, foster parents, and social workers.

The love and care of parents should provide a guiding light during these trying times. Many children, however, face these problems in their homes at the hands of their parents. Sometimes a parent fails to recognize their role, and that leads to abuse and neglect.

According to Department of Commerce data, in 1993 more than 1 million children were subject to some form of abuse. Of this 1 million, approximately 630,000 were subject to physical or sexual abuse. And in my State of Michigan alone, there were over 136,000 reports of abuse.

Our children are our future. A small investment of time and energy in our children can reap tremendous rewards, and we must do all we can to allow them to grow up in a safe and healthy environment.

I would like to thank the witnesses for coming and look forward to hearing their testimony.

Thank you.

Chairman SHAW. Thank you, Mr. Camp.

We have our first distinguished panel of witnesses, who are already seated at the table. I will introduce them and invite them to speak in the order in which I am introducing them:

Hon. Michael DeWine, who is a former member of the House of Representatives before he descended to the Senate; and, of course, George Miller, a most respected member of this Congress, as is Harris Fawell from Illinois.

We also have Hon. Connie Binsfeld, who is Lieutenant Governor of the State of Michigan, whom Mr. Camp has introduced to us.

And a constituent of mine, Mr. David Thomas, who is founder and Chairman Emeritus of the board of directors of Wendy's International in Dublin, Ohio, but I might say more importantly a member of the high school class of 1993 of Coconut Creek, Florida.

This perhaps explains why you are running around in that convertible and doing all these things when we see you on television. I think that probably most of these high school kids would eat their heart out to be able to ride in a car such as we have seen.

Senator, would you proceed?

STATEMENT OF HON. MIKE DeWINE, A U.S. SENATOR FROM THE STATE OF OHIO

Senator DEWINE. Mr. Chairman, thank you very much. I would like to submit a more detailed statement for the record.

Chairman SHAW. All statements will be submitted for the record from all of the witnesses, and we would invite the witnesses to proceed as they see fit and to summarize.

Senator DEWINE. Thank you, Mr. Chairman.

Mr. Chairman, too many children are spending their most important formative years in a legal limbo, a legal limbo that denies them their chance to be adopted, that denies them what all children should have—the chance to be loved and cared for by parents.

The job of finding parents for these children becomes infinitely more difficult the longer they are suspended in this foster care limbo.

Sometimes, Mr. Chairman—sometimes—we focus our energies on fruitless attempts to reunify certain families that simply cannot be fixed. As a result, the children lose the opportunity to find a permanent adoptive home.

We are sending too many children back to dangerous and abusive homes. We send them back to live with parents who are parents in name only, to homes that are homes in name only.

In my view, this situation is caused, in part—in part—by a misinterpretation of the 1980 Adoption Assistance and Child Welfare Act. That legislation, as the chairman has pointed out, did a great deal of good, and I am very glad to be here with some of the distinguished individuals who wrote that law.

The Child Welfare Act increased the resources available to struggling families. It increased the supervision of children in the foster care system. And it gave financial support to people to encourage them to adopt children with special needs.

The authors of the Child Welfare Act did an outstanding job, and their legislation has done a great deal to improve the lives of America's children.

But while the law has done a great deal of good, I have come to believe that the law is being commonly misinterpreted with some truly unintended and undesirable consequences.

Under the act, for a State to be eligible for Federal matching funds for foster care expenditures, the State must ensure that—and I quote: "Reasonable efforts must be made to reunify families."

Too often, Mr. Chairman, these reasonable efforts have, in practice, become extraordinary efforts. Families that are families in name only, households in which abuse and torture take place, are being reunited.

Mr. Chairman, there are hundreds of examples that I could give this Committee. Over the last few months, I have talked to people all over Ohio, professionals who deal with this problem, with this issue, every single day. And I think the best way for me to illustrate the problem is to tell you about a hypothetical that I ask each group of professionals that I talk to. This is the hypothetical; this is what I have asked them.

Let us say that there is a cocaine-addicted mother who has seven children. The father is an alcoholic. All seven children have been taken away permanently by the county. The mother then gives birth to an eighth child. That child, that baby, tests positive for cocaine. The father is still an alcoholic.

What would you do?

I pose this to people who have to make these decisions. Some said they would apply for emergency temporary custody, but they would still have to work to put that family back together.

Others told me that a court would not grant them even temporary custody of that child. In one county I was told it would be 2 years before the child would be available for adoption. Another county told me it would be 5 years before that child could ever be adopted.

Mr. Chairman, Dr. Goodhand, who is here today and will be testifying later, in response to a similar hypothetical question, told me that her department would move immediately for permanent custody. But she did say that their success would really depend on the Judge assigned to the case.

Mr. Chairman, now the answers I got were different from county to county. But one thing is clear. It is the 1980 law and how it is being interpreted by social workers and Judges that in some cases leads to these different results.

Mr. Chairman, I have absolutely no doubts that the authors of the Child Welfare Act did not intend for the law to bring about the results that I have just described. They wanted to make it easier for families with problems to work out their problems and stay together and to give those families the resources they needed.

They clearly did not intend to favor the interests of dangerous and abusive adults over the health and safety of children.

In the years since the passage of the Child Welfare Act, we have seen case after case after case in which the children are sent back to the custody of people who have already abused and tortured them. Every day in America, three children actually die of abuse and neglect at the hands of their parents or caretakers. That is over 1,200 children every year. And almost half of these children are killed after their tragic circumstances—after their tragic circumstances—have come to the attention of child welfare agencies.

Mr. Chairman, there are many causes for this—many, many causes. But I believe that the misunderstanding of the 1980 act is one of those causes. I think it is time to clarify Congress' intent.

While family reunification is a very laudable goal and should usually be attempted, the health and safety of the child should always come first. That, in my view, was the intention of the drafters of the 1980 law. Congress should reaffirm this by making whatever clarification is necessary in the law.

It is time, Mr. Chairman, for us to break this cycle, to help children escape abusers and find a permanent home before they have suffered absolutely irreparable physical and emotional damage. Let us make explicit the commitment of Congress and the American people. The health and safety of America's children must come first.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF
SENATOR MIKE DEWINE
JUNE 27, 1996

Thank you, Mr. Chairman.

Mr. Chairman, too many children are spending their most important, formative years in a legal limbo that denies them their chance to be adopted -- that denies them what all children should have -- the chance to be loved and cared for by parents.

The job of finding parents for these children becomes infinitely more difficult the longer they are suspended in this foster-care limbo. Sometimes we focus our energies on fruitless attempts to reunify certain families that can't be fixed. As a result, the children lose the opportunity to find a permanent adoptive home.

We are sending too many children back to dangerous and abusive homes. We send them back to live with parents who are parents in name only -- to homes that are homes in name only.

We send these children back to the custody of people who have already abused and tortured them.

We send these children back to be abused, beaten, and many times killed.

We're all too familiar with the statistics that demonstrate the tragedy that befalls these children.

Every day in America, three children actually die of abuse and neglect at the hands of their parents or caretakers. That's over 1200 children every year.

And almost half of these children are killed after their tragic circumstances have come to the attention of child welfare agencies.

Tonight, almost 421,000 children will sleep in foster homes. Over a year's time, 659,000 will be in a foster home for at least part of the year. Shockingly, roughly 43 percent of the children in the foster care system at any one time will languish in foster care longer than two years.

Ten percent will be in foster care longer than five years.

And the number of these foster children is rising. From 1986 to 1990, it rose almost 50 percent.

In summary, Mr. Chairman, too many of our children are not finding permanent homes.

Too many of them are being hurt.

Too many of them are dying.

0 Most Americans have probably heard of the tragedy that befell nine-year-old Elisa Izquierdo of New York City. Her mother used crack when she was pregnant with Elisa. A month before Elisa was born, her half-brother Ruben and half-sister Cassie had been removed from her mother's custody and placed into foster care. They had been neglected -- unsupervised and unfed for long periods of time.

In other words, this woman left her children alone -- and didn't feed them.

But then, Mr. Chairman, the children were sent back -- sent back to her!

Then Elisa was born.

When Elisa was born, she tested positive for crack. She was taken from her mother and transferred to her father's custody.

Tragically, in 1994, Elisa's father died.

Elisa was then five years old. The director of Elisa's pre-school warned officials about her mother's history of child abuse and drug abuse. But -- without any further investigation, and without ordering any further monitoring of Elisa's home situation, a family court judge transferred Elisa back to her mother.

In March 1995, when Elisa was six years old, she was admitted to the hospital with a shoulder fracture.

A shoulder fracture, Mr. Chairman. A little girl from a household with a history of child abuse shows up at the hospital with a shoulder fracture.

The hospital sent her back home to her mother.

Eight months later, in November of 1995, she was battered to death by that same mother. You see, Elisa's mother was convinced that Elisa was possessed by the devil. She wanted to drive out the evil, so she forced Elisa to eat her own feces, mopped the floor with her head, and finally bashed her head against a concrete wall. On November 22, 1995, Elisa was found dead.

It was on the front page of the New York Times. Millions of Americans were shocked.

What shocked me, Mr. Chairman, when I read the story was that anyone would be shocked.

While this horrible tragedy captured the attention of the country, the sad fact is that atrocities against children happen every day in this country. Children are reunited with brutal abusers -- they are abused again -- and yes, sometimes, they die.

Here's another incredible story. A Chicago woman had a lengthy history of mental illness. She ate batteries and coat hangers. She drank Drano. She stuck pop cans and light bulbs into herself. Twice, she had to have surgery to have foreign objects removed from her body.

Then, when she was pregnant, she denied that the baby was hers.

While pregnant, she even set herself on fire.

That's her idea of what being a parent is all about.

On three occasions, her children were taken away from her by the Department of Children and Family Services -- known as DCFS.

One of her children was named Joseph. Joseph's second foster mother reported to the DCFS that every time Joseph came back from visiting his mother, he had bruises.

But, in 1993, the children were returned to this mother -- one last time.

A month later, in April 1993, she hanged Joseph. She hanged her three-year-old son. Her comment to police was, "I just killed my child. I hung him."

She stood him up on a chair and said "bye." He said, "bye." Then he waved.

And she pushed the chair away. She hanged him.

What kind of person does something like that to her child?

She told a policeman: "DCFS was" blankety-blank "with me."

Mr. Chairman, why on earth would anyone think we should keep trying to reunite that family?

Last year in Brooklyn, New York, there were allegations that baby Cecia Williams and her three older siblings had been abandoned by their mother. As a result, they were

temporarily removed from her mother's custody. It turned out that they had not been abandoned by the mother. She had placed them in the care of an uncle -- and he had abandoned the children.

Later, Cecia and the other children were sent back home. Last month in New York, Cecia Williams died after being battered, bruised, and -- possibly -- sexually abused. Her mother and her boyfriend have been charged with the crime.

Cecia was nine months old.

Today, Cecia is dead -- a victim of blunt blows to her torso, and lacerations to her liver and small intestinal area.

0 A young boy in New Jersey named Quintin McKenzie was admitted to a Newark Hospital after a severe beating, for which his father was arrested. Quintin was placed in foster care -- but when the charges were dropped, he was sent back to his family.

In 1988, Quintin was three-and-a-half years old when his mother killed him. She plunged him into scalding water because he had soiled his diapers.

0 In Franklin County, Ohio, the local Children Services agency was trying to help Kim Chandler deal with her children -- 7-year-old Quiana, four-year-old Quincy, and one-month-old Erica. In July 1992, they closed the case on her. On September 24, 1992, all three children were shot dead -- and Kim Chandler was charged with the crime.

0 In Rushville, Ohio, in March 1989, four-year-old Christopher Engle died when his father dumped scalding water on him.

Mr. Chairman, I could multiply example after example of households like these -- households that look like families but aren't. People who look like parents but aren't. People who never should be allowed to be alone with a child.

Why are atrocities like this happening?

There are many factors contributing to this problem.

0 In many cases, the abuse is caused by parents who were themselves abused as children.

0 In other cases, the parent is deeply disturbed or mentally ill.

0 Often, the parent is a teenager -- emotionally unprepared for the responsibility of raising a child.

0 All of these factors were present in earlier generations. What's different today is that too many of the young parents have no role models of good parenting. They didn't have good parents themselves -- so they have no idea how to be parents for their own children.

0 Another major problem is the decline of the extended family -- the support system that used to do so much to make sure the children were taken care of.

0 Add to this, the relatively new phenomenon of crack. As we all know, since the late 1980s we have seen the explosion of a new form of cocaine that's readily available, cheap, and explosively addictive. Crack is so addictive that mothers have sold their children so they can get some more of it.

Put all these factors together and you have a major social problem on your hands. We ask social workers to try and patch up the wounded, but the social workers are underpaid and overworked. When I was an assistant county prosecutor, and then county prosecutor, I worked closely with these dedicated, hard-working social welfare professionals. I have great respect and admiration for them. They are at the front line of our efforts to save children. We expect the impossible from them, and frankly don't give them all the tools and resources they need to do their job. Often, the only option they have -- and the only choices they have for these children -- are all bad.

Many times our social welfare agencies are simply overwhelmed. Some experts say a social worker ought to handle no more than 15 cases -- but we have social workers handling 50 to 70 cases. They don't have enough time -- they don't have enough resources -- to solve the problems these kids have.

In summary, Mr. Chairman, there are many causes for the tragedies I have discussed. Further, there are many things that must change, many things we can do to help these children.

There are many things we can do to lessen the time it takes for children to be adopted, and to lessen the time these poor kids have to spend in the legal limbo of the system. Further, there are many things we can do to lessen the odds of tragedies like the cases of Elisa Izquierdo and Joseph Wallace.

Mr. Chairman, I intend to keep working to find solutions to these problems, recognizing that their causes are multiple -- and that to solve them, we must do many things.

But today, I would like to focus on one of the causes of these tragedies, one that most people haven't heard about. It's the unintended consequence of a small part of a law passed by the U.S. Congress.

In 1980, Congress passed the Adoption Assistance and Child Welfare Act -- known as CWA. The Child Welfare Act has done a great deal of good. It increased the resources available to struggling families. It increased the supervision of children in the foster care system. And it gave financial support to people to encourage them to adopt children with special needs.

The authors of the CWA deserve a great deal of credit for how they dealt with the problems they faced. Their legislation has done a lot to improve the lives of America's children. But while the law has done a great deal of good, I have come to believe that the law is being commonly misinterpreted, with some truly unintended and undesirable consequences.

Under the CWA, for a state to be eligible for federal matching funds for foster care expenditures, the state must have a plan for the provision of child welfare services approved by the Secretary of HHS. The State plan must provide:

"that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home."

In other words, Mr. Chairman, no matter what the particular circumstances of a household may be -- the state must make reasonable efforts to keep it together, and to put it back together if it falls apart.

What constitutes "reasonable efforts"?

This has not been defined by Congress. Nor has it been defined by HHS.

This failure to define what constitutes "reasonable efforts" has had a very important -- and very damaging -- practical result. There is strong evidence to suggest that in the absence of a definition, reasonable efforts have become -- in practice -- extraordinary efforts. Efforts to keep families together at all costs.

There are hundreds of examples I could give you. Over the last several months, I have talked to people all over Ohio who deal with this problem every day. I have asked them the following hypothetical question: "Let's say there's a cocaine-addicted mother who has seven children. The father is an alcoholic. The seven children have been taken away -- permanently -- by the county.

"The mother gives birth to an eighth child. The child tests positive for cocaine. The father is still an alcoholic. What would you do?"

Some said they would apply for emergency temporary custody of the child -- but they would still have to work to put that family back together. Others said a court

wouldn't grant them even temporary custody of the child. One county told me it would be two years before the child would be available for adoption. Another county said it would be five years.

Now, Dr. Goodhand -- who is here today and will be testifying -- in response to a similar hypothetical told me that her department would move immediately for permanent custody. But she said that their success would really depend on the judge assigned to the case.

Now, the answers I got were different from county to county. But one thing is clear: It is the 1980 law, and how it is being interpreted by social workers and judges, that leads to these different results.

In my view, this is certainly not what was intended by the authors of the CWA.

Mr. Chairman, much of the national attention on the case of Elisa Izquierdo has focused on the many ways the social welfare agencies dropped the ball. It has been said that there were numerous points in the story when some agency could have and should have intervened to remove Elisa and her siblings from her mother's custody.

I am not going to revisit that ground. Rather, my point is a broader one: Should our Federal law really push the envelope, so that extraordinary efforts are made to keep that family together -- efforts that any of us would not consider reasonable?

Throughout human history, the family has been recognized as the bedrock of civilization. The family is where values are transmitted. It's where children learn behavior -- develop their character -- and form their personality.

Over the last couple of years, a remarkable convergence has occurred in American social thought. Liberals and conservatives are now in near-total agreement on the need to strengthen the family as an institution. Without stronger families, it will be impossible to avoid a social explosion in which troubled children turn into dysfunctional adults on a massive scale.

But what we are confronting in the terrible stories I have just recounted are not families. They are households that look like families -- but aren't.

If you look inside one of these households, you see some children. And you see some people who -- superficially, at least -- resemble parents. But this is not what you and I and most Americans would call a "family."

In this household, the children are beaten and abused and neglected. Mr. Chairman, what do we, as a society, do about these households -- these households that aren't families?

By 1980, the child welfare system in this country had come under some pretty strong criticism. After many hearings, Congress concluded that abused and neglected children too often were unnecessarily removed from their parents -- that insufficient resources were devoted to preserving and reuniting families -- and that children not able to return to their parents often drifted in foster care without ever finding a permanent home.

That's how the CWA came to be enacted. The phenomenon known as "foster care drift" -- children who get lost in a child welfare system that cannot or will not find them a permanent home -- simply had to be faced and reversed.

Let me interject at this point that I had substantial experience on this issue before the passage of the CWA legislation in 1980. As long ago as 1973, I was serving as an assistant county prosecutor in Greene County, Ohio -- and one of my duties was to represent the Greene County Children Services in cases where children were going to be removed from their parents' custody.

I saw first hand that too many of these cases dragged on forever. The children end up getting trapped in temporary foster care placements, which often entail multiple moves from foster home to foster home to foster home, for years and years and years.

Congress enacted the CWA to try to solve this very real problem. There were good

reasons for the CWA, and the CWA has done a lot of good. There are some families that need a little help if they are going to stay together, and it's right for us to help them. Not only is it right -- it's also clearly in the best interests of the child.

We shouldn't be in the position of taking children away just because the parents are too poor -- or just because there's a problem in the family. If the problem can be fixed, we must try to keep the family together for the children's benefit. It's just that at some point, when it comes to cases of child abuse and child neglect, we have to step in and say: "Enough is enough. The child's health and safety have to come first."

And that's where we are now, in a lot of cases. Fifteen years after the passage of the CWA, I think we need to revisit this issue, and see how the system is working in practice.

I believe we need to re-emphasize what all of us agree on -- the fact that the child ought to come first. We have to make the best interests of the child our top national priority.

In many of the cases we have looked at, it looks like the CWA has been not been correctly interpreted. Try to imagine what the authors of the CWA would have said if they had been asked: "Should Joseph Wallace be sent back to his mother?"

I can't believe that that was the authors' intent. I can't believe that they would say, "In that case, and in every case, the child must be reunited with the adult at all costs."

Reasonable people agree on one point: Nothing -- nothing -- should take precedence over the health and safety of the child. It's common sense. And I think we need to make sure the CWA is interpreted consistently -- and correctly -- to reflect that common sense.

It is my hope that an important new book will spark the national debate that America need to have on this issue. The book is called The Book of David: How Preserving Families Can Cost Children's Lives, by Richard J. Gelles.

Dr. Gelles is the director of the Family Violence Research Program at the University of Rhode Island. For years, Dr. Gelles thought children should be permanently removed from their homes only as a last resort, even if it meant that the children may spend years moving back and forth between birth homes and foster homes. He now says -- and I quote: "It is a fiction to believe one can balance preservation and safety without tilting in favor of parents and placing children at risk." End of quote. He believes that the system is weighted too far toward giving the mother and father chance after chance after chance to put their life in order -- putting the adults first, rather than putting the children first.

Even some social-work professionals will tell you how true this is. Krista Grevious, a Kentucky social worker with 21 years of experience, says -- and I quote: "I think it's probably one of the most dangerous things we have ever done for children." End of quote.

Patrick Murphy is the court-appointed lawyer for abused children in Cook County, Illinois. He says --- and I quote: "Increasingly, people in this business do not look at things from the point of view of the child. But the child is the defenseless party here. We've forgotten that." End of quote.

In 1993, Murphy published an article in the New York Times that put the problem in historical context. I quote from his article: "The family preservation system is a continuation of sloppy thinking of the 1960's and 1970's that holds, as an unquestionable truth, that society should never blame a victim. Of course, the children are not considered the victims here. Rather the abusive parents are considered victims of poverty and addiction. This attitude is not only patronizing, it endangers children."

Marcia Robinson Lowry, head of the Children's Rights Project at the American Civil Liberties Union, sums it up. She says -- and I quote: "We've oversold the fact that all families can be saved. All families can't be saved."

Mr. Chairman, let me make this absolutely clear. I think there's nothing wrong with giving parents another chance. But we have to make sure the health and safety of the child come first. Is that child going to get a second chance at growing up? A second

chance to be four years old -- the age when a personality is already fundamentally shaped?

Jann Heffner, the director of the Dave Thomas Foundation for Adoption, has a useful way of looking at this problem -- the concept of "kid days." When you're three years old, one month of experience does a lot to the formation of your personality. It's not a month that can be taken for granted, or treated as routine.

One helpful way of looking at it is this: If you're fifty years old, one year is two percent of your life. If you're three years old, one year is one-third of your life.

There's some important psychological activity going on with these children. And every day -- every hour -- really counts. Lynne Gallagher, director of the Arizona Governor's Office for Children, says -- and I quote: "It's as though these people think we can put the kids in the deep freeze for awhile...and then pull them out when the parents are ready to parent." End of quote.

We all know how crucial those formative years can be.

Let me return to the work of Dr. Gelles. He says -- and I quote: "It is time to face up to the fact that some parents are not capable of being parents, cannot be changed, and should not continue to be allowed to care for children." End of quote. He advocates changes in Federal laws to protect children. He also thinks that child-protection officials should move to terminate parental rights sooner, thus freeing children for adoption.

I think the time is ripe for these changes. In New York City, Mayor Giuliani has pledged to shift the city's priorities away from family preservation -- and toward protecting children from harm.

But we need to examine how much of the problem we face is a consequence of Federal law -- the lack of precision of the CWA legislation back in 1980. And this is truly a national problem that needs a national response. According to the National Committee to Prevent Child Abuse, child abuse fatalities have increased by 40% between 1985 and 1995.

I think there's something the U.S. Congress should do about that. I think we should make it absolutely clear that the health and safety of the child are the primary concern of social policy.

I think it's time to clarify Congress's intent. While family reunification is a laudable goal, and should usually be attempted, the health and safety of the child should always come first. That, in my view, was the intention of the drafters of the 1980 law. Congress should reaffirm this -- by making whatever clarification is necessary in the law.

It's time for us to break this cycle -- to help children escape their abusers and find a permanent home before they have suffered absolutely irreparable physical and emotional damage. Let's make explicit the commitment of Congress and the American people: The health and safety of America's children must come first.

# # #

Chairman SHAW. Thank you.
Mr. Miller.

STATEMENT OF HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MILLER. Thank you, Mr. Chairman, and I want to thank you very much for the manner in which you are preparing to look into this problem.

This is a problem, as you will learn today and as you know from your previous experiences, that is very complex. We fought very hard to keep this out of reconciliation, so that this Committee could look at this law in a dispassionate manner to try and see if we could improve on it.

I am very proud that I was the main cosponsor of this legislation back in 1980. But, I am not very proud of how our Nation takes care of abused and neglected children or children in foster care.

Some things change, and some things remain the same. In 1980, we were looking at children over half of which were taken from their homes; in some States, 80 percent of the children were taken from their homes, and at that point there was no further contact between the government that took the children from those homes and the families that lost their children.

At that time, the debate raged about the rights of parents, to defend and protect them against the Federal Government and all of its power, taking children away from their parents and then not providing the rationale or a basis for the reunification.

States and local governments were sued, like Chicago, which sent hundreds of its children to Louisiana and to Florida and elsewhere, with no further contact with the agencies or with the families.

Families sued and finally won the right to be reunified with their children. Children were taken away from their parents when they were having marital problems and abuse problems. People had remarried, started their lives over, and many years later still could not get their children back. Members of this Committee, at that time, were instrumental in getting those children back to their families.

So we said that, when you take a child away from a family, you ought to make some reasonable effort to see whether or not that child can be reunited with that family, because very often the problems that led to the separation were relatively minor, but they were leveraged into large degrees of abuse and neglect or what have you.

We also said you ought to make every effort to see whether or not you can find permanent placement for that child.

And reasonableness? The fight at that time was not for the Federal Government to define it, but the fight was to let the States do it because they did not want the Federal Government making that decision.

Reasonableness, we thought, was like the basis of common law in this country, the "reasonable man" test: What would a reasonable man do with this child? Would you return it to an abusive family? Would you return it to where there is a history of not taking care of their children and drug abuse and alcohol abuse?

I imagine most reasonable people would say no. I think your task will be to separate out questions of competency, questions of evasion of the law, and concentrate on what this law does and does not do.

And, you ought to review each and every aspect of this law. This law has been on the books 16 years, and it ought to be reviewed.

Circumstances have changed with respect to the advent of cocaine and its prevalence in families; the dramatic increases in abuse we see that are drug-related and non-drug-related that, you know, we thought we knew something about, but we certainly did not know about the prevalence of it.

But we have got to go back—as Senator DeWine said—we have got to go back to the child. And what we found and what you find today—you find it today in 20 States that are being sued and some that are under court order—they are lying to the parents about what they are doing with the child; they are lying to the grandparents about what they are doing with the child; they are lying to the court; they are lying to other agencies; and they are lying to the Federal Government.

The State of New York just flatout lied, said it was providing services when it never was.

That is not fair to that child. And we know that those services with respect to that child are the greatest predictor of whether or not that child, in fact, is going to have a successful encounter with the system.

We found a system at that time—and we still find agencies today—where children who should be released for adoption, children who have been cleared for adoption, still languish in this system to their 18th or 21st birthday or whatever period of time that somebody arbitrarily makes up when they are released from the system.

We still find that people have a financial interest in keeping children in the system that should be released for adoption.

This is a huge, complex problem, I am very excited about your willingness to delve into it, because it affects several hundred thousand children a year that encounter this system in an intensive fashion, and, you know, potentially 1 million or more children that could be exposed to this system.

But it is a three-part system. It is how you take the child into the system; it is what you do with the child while they are in the system; and how do you release the child from the system. And in each of those efforts, we have to have a check.

The notion in the 1980 law was that we would have periodic reviews. We said every 6 months you should have a periodic review.

Why did we say that? Because for a child who is 1 year old, that is half their life. For a child that is 2 years old, it is 25 percent of their life. We ought to be asking: What are you going to do with this child for the next 6 months? What is your plan? To get this child back home or to get this child into permanent placement or to find suitable foster care? What is your plan?

Reasonable efforts. Let me just say, it is almost unbelievable to me that reasonable efforts would be what is attached on. I have been to so many conferences and seminars on reasonable effort over the years on this, provisionary, that somehow it drives chil-

dren back into an abusive home. I really have to tell you; I think in the instances that Senator DeWine has raised and others, I question the competency of the people making the decision.

We have seen the outrage, whether it is in Chicago or New York or Los Angeles, the San Francisco Bay area; we have seen that outrage. You have got to ask yourself: What is going on in this system?

This is not about reasonable effort; this is about a dysfunctional system. And I think that is the challenge that you are going to have, to pull this apart and look at this tripartite system as a child encounters it, usually through no fault of their own, and what happens. How do we care for that child, and how do we make it child-centered, so that that child can survive in it with their biological family or in a new permanent setting.

And that is a big challenge. I would be more than happy to work with you. This is a review that hopefully will be comprehensive and is long overdue. And I thank you—you and the other Members of the Committee, for dedicating some time to this effort.

[The prepared statement follows:]

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STATEMENT OF THE HONORABLE GEORGE MILLER
on Adoption
Before the House Committee on Ways and Means
June 27, 1996

Mr. Chairman, I appreciate the opportunity to testify before the Subcommittee on the important issue of adoption, and barriers to providing children with permanent placements when they cannot and should not live with their biological parents.

I am here because nearly two decades ago, during my first years in Congress, I became aware of the tragedy of the foster care system in this country, and the lack of opportunity for children in the system to achieve permanent placement through adoption, and made a concerted effort to do something about it. That five year effort, which I initiated with Senator Walter Mondale, resulted in a comprehensive reform of the federal child welfare law in the "Adoption Assistance and Child Welfare Act of 1980." It is from my perspective as the original sponsor of this law that I have some observations about where we were then and where we are today.

My investigations into the status of children in the foster care system in the 1970s revealed an expensive waste of federal funds and young lives. Information provided in Congressional hearings indicated that thousands of children were being placed in out of home care with little thought to the appropriateness of those placements, with inadequate services and poor accountability by child welfare agencies, and with virtually no assurance that the child would ever have a permanent home.

Federal law at that time reinforced all of the worst aspects of the foster care system. It provided insufficient safeguards against the inappropriate removal of children from their families; it provided no incentive--in fact, provided a disincentive-- for placing children with adoptive families. Unlimited funding was available for foster placements, but inadequate funds were available for preventive or reunification services, even with ample evidence that many children were being unnecessarily removed from their homes.

Despite the fact that many children in foster care had special needs and would be expensive for families to adopt, the government provided no assistance for families wishing to undertake this responsibility. Not only was no basic support available, but foster children who were eligible for Medicaid most often lost eligibility once adopted.

All this added up to a system that encouraged impermanent placements, and "limbo" for thousands of children. Further, the "system," with impossibly large social work caseloads operated with virtually no accountability. There was no requirement to review foster placement or to create a case plan for the child. Indeed, we heard that a typical "review" of a child's foster placement consumed less than five minutes.

Congress passed the "Adoption Assistance and Child Welfare Act" (P.L. 96-272) to achieve not only greater cost savings for taxpayers, but also greater permanency for children. We built incentives to reduce or limit the duration of foster care placements while providing a permanent, secure environment for those children who could not return to their homes. Our goal was to provide adequate resources and funding for States to provide preventive and supportive services for at-risk families to prevent abuse and neglect and avoid the initial need for foster placement; and to provide a subsidy to families wishing to adopt special needs children so they would not languish in the foster care system

We also built into this law some protections for children who were in foster care by requiring States, as a condition of receiving Federal funds, to adopt certain procedures mandating the review of the child's placement. In that context, States had to make "reasonable efforts" to avoid placing a child in foster care to begin with or to reunite the child with his or her parents in a timely manner after removal from the parents. Judges had to make a determination that such "reasonable efforts" were made for each child.

It mystifies me that now, some 16 years later, the "reasonable effort" requirement has come under fire as some kind of "liberal" attempt to protect abusive parents, and in fact has *caused* children to incur serious harm or even death at the hands of "the system." It is patently absurd to imply that this provision of law was ever intended to compromise a child's safety or that a court would read it so. The reasonable effort" requirement was always intended to be applied within the context of meeting the child's needs and safety. There is nothing "mandatory" about sending a child back to his or her family, and no "reasonable" person would read it as such. It is true that the Department of Health and Human Services has never promulgated regulations providing guidance regarding what is "reasonable," but I think it can be argued that federal prescription in this area would be difficult and could cause more problems than it would solve. The State of California and many other states have crafted their own standards for reasonable efforts, and there should be no reason why all states cannot do this. In California, after the issue of reunification was carefully studied, a law was enacted that specifies situations where reunification is inappropriate, and authorities must follow a specific process in order to ensure that the situation is evident.

The "reasonable effort" requirements was adopted as part of a much broader structure of the law to ensure that the child welfare system be accountable to the child and his or her legal rights-- that there be a timetable for review of the child's situation and that the child only move to the next level of intervention, including adoption, if there is no other reasonable alterative.

No one can dispute that child welfare agencies make tragic mistakes with regard to the placement of children in dangerous family situations. Although I know it is popular these days to legislate by anecdote, I think it would be a grave error to blame such incidents on the "reasonable effort" requirement. In fact, such tragedies are contrary to the entire intent of the law.

No, this law is not about family preservation at any cost. It is about protecting our children and parental rights, which are sometimes at odds with each other and must be delicately balanced.

What is needed to make a "reasonable effort" requirement work to the maximum benefit of the child and his or her family is adequate resources and adequate services, which have been sorely lacking in many states. While tens of thousands of children throughout the nation have benefited from the case plans, services and reviews mandated since 1980, the current state of foster care demonstrates the intractable nature of this system.

A federal suit against New York's Child Welfare Agency conveys "an unmistakable picture [and] damning portrait of an agency in crisis," according to the New York ***Times*** (Feb. 2, 1996). Not only did children (and their families) fail to receive required services and periodic reviews of placement, but New York officials lied about providing the reviews required by law. The result, not unlike that of the 1970s, is a system filled with children adrift at enormous expense to the taxpayer and to their own futures. That condition is not the result of the federal law but rather the result of efforts to erode its direction and mandate.

But New York is not alone. Cases have been filed in twenty-one states because of their illegally inadequate child welfare program; child welfare proponents must resort to court action to force states to obey the law. Many states have reneged on promises to courts to upgrade their programs after findings of inadequacy in dozens of cases. Federal Judge Thomas F. Hogan in Washington, D.C. (whose foster care program is in receivership) recently condemned "outrageous deficiencies," and an Illinois judge termed his state's program "a bleak and Dickensian picture."

What happened to the promise of the 1980 Act? To be sure, pressures on the system from the crack cocaine epidemic have been tremendous. The nature and severity of abuse and neglect has

worsened and the causes more difficult to treat. Children entering foster care, many more of whom are babies, have more complicated problems than ever before. But surely the condition of the child welfare system is also a result of some states' unwillingness to devote adequate resources to protect one of their most vulnerable populations.

The state of the child welfare system today is not because of the federal law but in spite of it. I am far more concerned about a future federal child welfare program that lacks the basic requirements we established in the 1980 Act H.R. 4, the welfare reform proposal reported by this committee and eventually vetoed by President Clinton, turned a deaf ear to this dismal record by the states and to their young victims as well. This bill would have diluted the goals of the 1980 law in favor of a block grant to allow states to manage their own child welfare programs. It is difficult to see how the foster children of New York, Washington, Illinois or any other of the 20 states that violate current law would benefit by Congress giving total control over the program to the very state agency that lied, delayed or misrepresented to the courts its record in enforcing the law.

Left to their own devices before 1980, the states rarely provided meaningful reviews, or few operated programs to reduce the need for or duration of foster care. Even fewer supported the adoption of children out of costly foster care. Absent the standards mandated by current federal policy, there is a strong indication that many states and local jurisdictions would not only fail to improve their existing, inadequate programs, but would revert to the *status quo ante* in which states regularly disregarded the best interests of the foster child.

The key to wise policy making is not merely to react to a crisis, but to react in a manner that will alleviate the crisis. Blunting foster care reform by relieving local officials of legal accountability of their programs will not remedy the continuing crisis in foster care and adoption.

It is all well and good to experiment with ways to improve welfare administration, as over 30 states are already doing under waivers provided by the Clinton Administration. But no responsible legislation should sanction experimenting with the lives of abused, neglected and abandoned children. Investing in those policies, it is being shown across America, can not only improve the current system, but prevent today's foster children from becoming the parents of the next generation of children without permanent homes.

Chairman SHAW. Thank you, Mr. Miller. We look forward to working with you on this issue.

Mr. Fawell.

STATEMENT OF HON. HARRIS W. FAWELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. FAWELL. Thank you very much. I, too, appreciate having this opportunity.

All of us here this afternoon are certainly united in a common bond to assist those children, who through no fault of their own are victims of an overburdened system, maybe a dysfunctional system, which permits them to fall through the cracks.

Mr. Chairman, it is no secret that adoption rates have declined in recent decades. In 1969, over 360,000 babies were born out of wedlock; almost one in four was adopted. In 1991, over 1.2 million babies were born out of wedlock, yet only one in 25 was adopted.

However, public interest has increased. Close to 2 million couples would like to adopt these children. Because of this vast need for adoption and the large pool of parents willing to adopt, Congress has to develop incentives, it seems to me, to eliminate as many barriers as possible to a speedy and permanent adoption.

While adoption issues and barriers to adoption encompass, of course, a multitude of areas, what I would like to focus on this afternoon is one group of children, what I call "at-birth abandoned babies."

For a number of years, I have sponsored legislation which seeks to expedite the adoption process of these particular babies abandoned at birth or shortly thereafter, in a 3-month period from the date of birth or a 6-month period.

Again, in this Congress, I have introduced the At-Birth Abandoned Baby Act. I believe that we have to develop a system which helps these very special babies abandoned at birth to a fasttrack permanent and immediate bonding with what I refer to as "preadoptive designated parents," who would, at their own expense—and I emphasize that point—be guaranteed expedited adoption proceedings in the proper State court.

There is no doubt that something has to be done about the terrible plight faced by babies abandoned at birth. Our present system, in effect, it seems to me, leaves these most vulnerable babies, those abandoned at birth and often drug-addicted and/or HIV-infected, without any chance of access to immediate bonding with loving parents.

In the present welfare system, as I see it, with the lack of staff and service resources and poor coordination among courts and attorneys and crowded child welfare calendars, babies abandoned at birth simply have nobody to represent them, no one to guide them through the maze of child welfare agencies and laws, to be freed for adoption, so as to obtain the immediate bonding and the love that they so desperately need.

Mr. Chairman, the At-Birth Abandoned Baby Act of 1995 amends title IV, section (e) of the Social Security Act. The bill simply requires that State welfare authorities have to immediately place at birth abandoned babies with suitable preadoptive parents who, in turn, will be allowed to immediately file at their expense

for an expeditious adoption of the abandoned baby in the State court of the proper jurisdiction.

The State court would terminate parental rights and award an adoption decree to the preadoptive parents only, of course, upon proper proofs and after taking into account the rights of all parties involved, including the infant abandoned at birth, the natural parents, the preadoptive parents, and any other interested parties that might intervene in that action.

The bill thus gives babies abandoned at birth not only preadoptive parents with whom to immediately bond, but also the necessary—and this is so important—legal and practical representation and expedited court adjudicatory powers by which they may be freed for adoption and thus placed in a permanent loving home.

I would like to just shortly review some of the sad findings of a comprehensive study conducted by the Department of Health and Human Services on so-called boarder and abandoned babies, which was released in 1993.

This study found nearly 12,000 abandoned babies residing in 573 hospitals throughout 101 counties in the United States which were surveyed across the country in 1991. Tragically, drug exposure could be found in 87 percent of the abandoned babies.

Perhaps the most troubling finding of the HHS study addresses the placement of the abandoned infants. It found that none of the abandoned infants were expected to leave the hospital in the care of their biological parents, and only 6 percent were expected to go into adoptive placement.

Today we continue to hear the heart-wrenching stories of abandoned infants. Less than a month ago, a suburban Washington, DC couple returned to their apartment to find a cardboard box harboring two abandoned infants swaddled in yellow towels and a bedsheet. Within hours, the local police department received telephone calls from people hoping to adopt the two babies who were just several days old.

Mr. Chairman, numerous studies have shown that if abandoned infants are placed into a loving home as early as possible, that baby has a better chance of normal development and a happy childhood.

The problem here is, again, I state that our present system, though well intentioned, leaves the most vulnerable of the vulnerable with next to no chance at all of finding the immediate parental bonding that I think they have a right to and which is so vital to their healthy development as children.

It is for this reason that I believe we should seriously consider passing legislation which at least, insofar as these babies abandoned at birth are concerned, will expedite the adoption process and then be put on the fasttrack procedure. This same procedure plays itself out as a practical matter in many out-of-wedlock births, for instance, in the middle class or upper middle class.

These things are taken care of in a very practical way where representation is afforded for those children, but not the ones who are abandoned and left in hospitals and have absolutely no one to go through that maze of the system as it now exists.

Thank you.

[The prepared statement follows:]

STATEMENT OF
CONGRESSMAN HARRIS W. FAWELL

June 27, 1996

First, I would like to thank the Chairman of the Human Resources Subcommittee, Congressman Clay Shaw, for holding this hearing on such a critical issue to the thousands of children languishing in our nation's foster care system. All of us here this afternoon are united in a common bond to assist those children who, through no fault of their own, are victims of an overburdened system which permits them to fall through the cracks.

Mr. Chairman, it is no secret that adoption rates have declined in recent decades. In 1969, over 360,000 babies were born out of wedlock -- almost one in four was adopted. In 1991, over 1.2 million babies were born out of wedlock, yet only one in 25 was adopted. However, public interest has increased -- close to two million couples would like to adopt these children. Because of this vast need for adoption and the large pool of parents willing to adopt, Congress must develop incentives to eliminate as many barriers as possible to a speedy and permanent adoption.

While adoption issues and barriers to adoption encompass a multitude of areas, this afternoon I would like to focus on one group of children: at-birth abandoned babies. For a number of years, I have sponsored legislation which seeks to expedite the adoption process of babies abandoned at birth, or shortly thereafter. Again this Congress I have introduced the At-Birth Abandoned Baby Act (H.R. 1044). I believe we must develop a system which helps these very special babies abandoned at-birth, or shortly thereafter, the right to a fast-track placement and immediate bonding with "pre-adoptive parents" who would, at their own expense, be guaranteed expedited adoption proceedings in the proper State court of jurisdiction.

There is no doubt something must be done about the terrible plight faced by babies abandoned at-birth. Our present system, in effect, leaves these most vulnerable babies -- those abandoned at-birth and often drug addicted and/or HIV-infected -- without any chance of access to immediate bonding with loving parents. In the present welfare system, with lack of staff and service resources and poor coordination among courts, attorneys and crowded calendars, babies abandoned at birth have no one to represent them; no one to hold them and love them, let alone represent their rights in a court of law for the immediate bonding and love they so desperately need.

Mr. Chairman, the At-Birth Abandoned Baby Act of 1995 amends Title IV (E) of the Social Security Act. The bill simply requires State welfare authorities to immediately place "at-birth abandoned babies" with suitable "pre-adoptive parents" who, in turn, will be allowed to immediately file, at their own expense, for an expeditious adoption of the abandoned baby in the State court of proper jurisdiction.

The State court would terminate parental rights and award an adoption decree to the preadoptive parents only upon proper proof and after taking into account the rights of all parties involved, including the infant abandoned at-birth, the natural parent(s), the pre-adoptive parents, and any other interested parties. The bill gives babies abandoned at-birth at least a fighting chance for immediate parental bonding and a permanent home. Currently, they have none.

I would like to review some of the sad findings of a comprehensive study conducted by the Department of Health and Human Services (HHS) on boarder and abandoned babies which was released in 1993. The (HHS) study found nearly 12,000 abandoned babies residing in 573 hospitals throughout 101 counties in the United States which were surveyed across the country in 1991. Tragically, drug exposure could be found in 87 percent of the abandoned infants. Perhaps the most troubling finding of the HHS study addresses the placement of the abandoned infants. The HHS study found that NONE of the abandoned infants were

expected to leave the hospital in the care of their biological parent(s) and ONLY six percent were expected to go into adoptive placement.

Today we continue to hear the heart wrenching stories of abandoned infants. Less than a month ago, a suburban Washington, D.C. couple returned to their apartment to find a cardboard box harboring two abandoned infants swaddled in yellow towels and a bedsheet. Within hours the local police department received telephone calls from people hoping to adopt the two babies who were just days old.

Mr. Chairman, numerous studies have shown that if an abandoned infant is placed into a loving home as early as possible, that baby has a better chance of normal development and a happy childhood. The problem here is that our present system - though well intentioned - leaves the most vulnerable of the vulnerable with next to no chance at all of finding the immediate parental bonding which is vital to the healthy development of the child. It is for that reason that I believe we should pass legislation which will expedite the adoption process for babies abandoned at birth and who, without a fast track process, would be condemned to oblivion. My hope is that we can do the same for all children waiting for adoption.

Mr. Chairman, extensive factual research tells us adoption works! It increases the emotional, physical, and cognitive capacities of the children who are adopted. It improves the life chances of the adoptive child while saving vast amounts of taxpayer funds. Perhaps most importantly, it brings love and happiness, both to the adoptive parents and the adoptive child.

I will continue to make myself available to you, Chairman Shaw and the members of the Ways and Means Committee in the hope of passing the At-Birth Abandoned Baby Act and any other measures which will eliminate the barriers and expedite the adoption of those children waiting for our assistance in foster care.

Chairman SHAW. Thank you, Harris.

Mr. Camp and Mr. Levin will introduce the next panelist.

Mr. CAMP. Thank you, Mr. Chairman.

I know that my colleague on the Committee, Congressman Levin, joins me in introducing to the Committee the distinguished Lieutenant Governor of Michigan, Connie Binsfeld.

Lieutenant Governor Binsfeld has been a tireless advocate for our Nation's youth. She has led efforts to identify and reform problems in order to improve the lives of our Nation's children.

In 1991, she was appointed by Governor Engler to head the Binsfeld Adoption Commission. In July 1995, she was appointed to chair the Children's Commission. Her efforts led to important legislation that helped to reform Michigan's adoption system and dramatically increased the number of children moving into permanent homes.

In recognition of her outstanding public service as an advocate of today's youth, she was presented with The Humanitarian Award by the Child and Family Services of Northwestern Michigan and received the DeVore Committee's "Hear My Voice" Award, and for 1997 she was recognized as Michigan's Mother-of-the-Year.

I know my colleagues will join me in welcoming the Lieutenant Governor to the Committee, and we look forward to your testimony.

STATEMENT OF HON. CONNIE BINSFELD, LIEUTENANT GOVERNOR, STATE OF MICHIGAN

Ms. BINSFELD. Thank you, Congressman Camp, and thank you, Mr. Chairman and Members of the Committee, for inviting me to give testimony today.

Yes, it is true that I have been a strong advocate for children, and when our administration came into office in 1991, I asked the Governor about the fact that we had so many people waiting to adopt and we had so many children in the foster care system, that there must be a problem. He immediately issued an Executive Order and established the Commission on Adoption.

We met for 1 year, and we came out with 67 recommendations. A few of the recommendations that we found were, great bureaucratic delays, lack of financial incentives to move children through the foster care to adoption, a lack of involvement by birth mothers, societal attitudes toward adoptions were quite negative, and there were problems surrounding interracial adoptions.

We recommended stringent procedural timelines on the bureaucratic system, and financial incentives for early placement by the original placement agency. If adoption placement is not found within 8 months after the termination of parental rights, then they must release the child to a statewide adoption exchange over that 8-month timeline so that other agencies, then, would be able to compete, and we put financial incentives in. We found that that worked quite well.

We recommended more openness in adoption. We even recommended parental consent adoption to give the birth mother an active role in the adoption process. I am happy to report that for the years 1991 to 1995, there has been an overall increase in adoption of special-needs children by 44 percent in Michigan and an in-

crease in adoption of African-American special-needs children by 151 percent.

The mission of our children's commission was early permanency for children, which is so vital to child development and a deterrent to those children becoming special needs children.

Among our recommendations were; a more valid assessment of families, so that they can receive immediate help, early intervention, or quick termination of parental rights on those who are unable to change to allow early adoption of the child, improved resources for the caseworkers, more training, better assessment tools, partnerships with the police and the prosecutor's office, assignment of protective service staff to the hospitals that were receiving over 200 referrals of abuse and neglect each year, establishment of multidisciplinary teams for investigation and treatment, and children's attorneys that are better trained and prepared to represent the child.

We found that we faced a new kind of foster care drift resulting from the "reasonable efforts" provision of the Adoption Assistance and Child Welfare Act of 1980. I do believe that act was well-intentioned and may have eliminated some of the problems that existed.

Prior to 1980, foster care drift was caused by taking children from their homes and placing them in foster care and not providing any services to the parents to help reunite.

Today we still have foster care drift, but it has changed a little. Today the "reasonable efforts" to prevent removal or reunite are focusing services on abusive parents, and children are entering the foster care later more damaged and left in abusive homes while workers attempt to prove the unprovable to the Federal Government.

Yes, we do recommend that Michigan define "reasonable efforts," but the fear is still there of losing Federal funding if all of the continued resources are not put forth while children wait in foster care and parents are continually given these services and reunification efforts.

We established in our recommendations to seek termination of parents' rights at the first dispositional hearing without reunification efforts when certain severe abuse has occurred and then aggressively move toward adoption.

We need your help at the Federal level, and we hope that you will please put into law what we hope to do in Michigan, a defining of "reasonable efforts," that you will find in our recommendations in the written testimony.

You and I are the guardians of these children. On behalf of every child who shudders when daddy or mom's boyfriend opens that bedroom door at night, every child who screams from the infliction of pain, children whose nightmares occur when they are awake—in the name of these abused children, I plead for your help.

We do not send domestic violence victims back to their abuser, nor should we be victimizing children by sending them back to their abusers.

Thank you for receiving this testimony today, and I hope the additional testimony we have given you will be helpful to you in your decisionmaking.

Time is short for these little children. There is a chance of childhood. But that window of opportunity is very short. And if we do not address it now, these children will not be saved.

[The prepared statement follows:]

Testimony before the
House Ways and Means Subcommittee on Human Resources
June 27, 1996

Connie Binsfeld
Lieutenant Governor
State of Michigan

Thank you very much for inviting me here today. I consider it an honor to come before the Ways and Means Subcommittee on Human Resources on an issue that has been a driving force in my life since becoming Lt. Governor - the issue of giving children a permanent, loving family through early adoption.

In the first few months of our administration, I had a startling experience that became the foundation of my work in the five years Governor Engler and I have been in office. I was invited to a meeting of people who were experiencing problems with "special needs" adoption of state wards. I was totally unprepared for the experience that awaited me. I thought I was going to meet people who were upset with their experience of adopting state wards. What I found were people who WANTED to adopt state wards, but were unable to because of various bureaucratic roadblocks!

The things I heard that night astounded me. I had believed that there were very few people willing to adopt "special needs" children. What I learned was that families were sometimes forced to go *outside the state* to adopt a "special needs" child! They wanted my help in making state wards more available to the many families who wanted to adopt them. That was the beginning of my work that brings me here today.

When I shared that experience with Governor Engler, he immediately began to take action. He issued Executive Order No. 1991-14 creating the Lieutenant Governor's Special Commission on Adoption. He gave us one year to develop recommendations to address the problems of adoption.

As in all difficult issues, we found that even in Michigan, a model for other states in our adoption process, there were multiple obstacles to adoption, not the least of which is the attitude that adoption is the last resort for children instead of a loving, positive way to build a family.

We focused on voluntary infant and state ward adoptions. They are distinguished by the source of the funds which pay for the adoption services. State wards, because they are the responsibility of the Family Independence Agency Adoption Services (formerly the Department of Social Services), are primarily funded by the State of Michigan. Infant adoptions are paid through fees charged to the adoptive families.

For state ward adoptions, we learned how the public/private partnership for adoption service delivery affects the ability to achieve permanent placements. For voluntary infant adoptions, the major concern was the appropriateness of the adoptive placement and the need of birth mothers to have more control over the placement of their infants.

Most of our report focused on state ward adoption issues where the greatest number of children were awaiting permanent homes. Too many of them were waiting too long to be adopted. We learned how complicated the adoption process was and that the adoption system contains several subsystems and is interrelated with other major systems. Each of the subsystems has its own procedures and problems, and each seems powerless to improve adoptions beyond its own portion of the process. The larger, interrelated systems, including in-home services, foster care, the judicial system, legislative funding system, and the public at large, all impact immensely on the adoption system.

In order to improve adoption services in Michigan, we found that our public/ private partnerships must be extended to include all of the parties involved, the adoption triad (the birth parent, adoptive parent, and the best interest of the child), private and public child placing agencies, the courts, funding entities and the public - a very complex situation.

In many instances, there were no timeline requirements when tasks had to be completed or goals achieved. In other instances, timelines had already been established, but were not enforced. Administrative rules and statutes needed to be changed in order to structure the timeliness of adoptions.

Workers, public policy makers, and court personnel needed better training on planning for children's permanency. Accurate and comprehensive data needed to be collected and shared for informed decision-making to occur. Additionally, the collection and dissemination of this data would assist in the effort to inform the public. We know that when families are aware that children are waiting, they do adopt.

We found that most transracial placements occurred when the recruitment system failed to keep up with the flow of children entering foster care. The systemic problem of family recruitment that causes children to be placed transracially must be addressed, but not at the expense of children who are already bonded. Rather, recruitment efforts must be increased on the foster care side to ensure an adequate number of families are available. We strongly believe that like-race placement, when possible, is optimal for children. We also believe as strongly that permanency for children should not be sacrificed because of it. Early permanency is essential to child nurturing and connectedness. It is basic to child development.

Adoptive services must emphasize helping families with adjustment during and after adoption. As children and families grow and develop together, resources must be available to support and sustain them.

We found that insurance issues had a profound affect on adoption - the issues of coverage of pre-existing conditions of the "special needs" child and the need to have adopted children added to private insurance policies upon adoptive placement.

We took the somewhat controversial step of recommending parental consent adoption, but we insisted on safeguards for the child through private agency home studies and prohibiting exchange of anything of monetary value beyond the established fee structure to prevent the "buying" of a baby. This prohibition is ensured by sworn testimony by the parties during court proceedings.

Our Commission's report contained sixty-seven recommendations. After our report was issued, the Department of Social Services (now the FIA) formed a working group to study and implement the recommended policy changes and the legislature introduced a legislative package to make our recommended changes in statute. I am proud to be able to tell you that in the years from 1991-1995, there has been an overall increase in adoption of special needs children by forty-four percent and an increase in adoption of African American special needs children by one hundred fifty-one percent!

However, until we address the issue of foster care, we will always have problems in adoption. Foster care drives adoption. As long as children are captives of the foster care system, the dream of a childhood in a permanent, loving home will be denied. Because foster care and adoption are inextricably woven, I was lead to a deeper understanding of the effect foster care policy had on permanency for children. I began to hear heartbreaking tales of abused children, of children removed too late from horrifying home situations, of children languishing in foster care as their parents failed and failed again to be rehabilitated by the services they were given.

I was deeply troubled then, as I am still, by the world our children face, a world that so often makes them its last concern. Again I shared my concerns with the Governor and again he took action. He issued Executive Order 1995-12 which created the Lt. Governor's Children's Commission. Our charge was to review state and federal statutes, rules and policies regarding prevention/preservation programs, removal/foster care placement, reunification, termination of parental rights, post termination placement, and adoption of children.

Each member of my Commission came to their duties with the belief that the biological family is the basic and natural structure for raising children. However, in the real world, we know that this is not always possible. Child abuse and neglect has grown at such an alarming rate it is now considered a

national emergency. The U.S. Advisory Board on Child Abuse and Neglect reports that deaths from abuse and neglect of children age 4 and under outnumber those from falls, choking on food, suffocation, drowning, residential fires, and motor vehicle accidents combined!

Society has changed and in many cases government has been left to pick up the pieces. Unless we open new pathways for children of severely abusive homes to flourish and grow, an increasing number of children will be raised by the state. Children will lose something that can never be replaced: a chance at childhood; a chance at a forever family.

The history of child welfare reveals that the foster care system became overwhelmed by the number of children entering the system which resulted in "foster care drift" - a term used to describe years of foster care placement with no permanency for the child. To address the problem, Congress enacted The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). This Act requires that "reasonable efforts" be made both to prevent the need for removal from the family and to provide services to the family so the child can be returned as quickly as possible if removed from the home. Congress hoped, through the creation of the "reasonable efforts" provision, to reduce the number of children removed from their parents. The federal legislation was well intended and may have been appropriate at the time. However, as society changed, due to an increase of drugs, violence and abandonment by birth parents, we have witnessed unintended consequences of that legislation.

We face a new kind of "foster care drift" resulting from the "reasonable efforts" provision of this Act. "Foster care drift" was not eliminated by that provision. It merely changed. Prior to the 1980 Act, "foster care drift" was caused by taking children from their families, placing them in foster care and not providing services to the parent to help them reunite with their children.

Today, however," foster care drift" continues as a variation of its former self. Today, "reasonable efforts" have become "unreasonable efforts" as we provide services again and again to abusive parents. Children are entering foster care more damaged because they are left in their abusive homes while workers attempt to prove the unprovable to the federal government - that the undefined, nebulous "reasonable efforts" have been made to prevent the removal of the children from their home.

Because children are more damaged upon entering the system, our foster care and adoption subsidy costs have soared due to the intensive care these children need. Their damage is compounded as they are shuffled from disrupted placement to disrupted placement due to their behavior and overwhelming needs. They become unadoptable.

We need to challenge the present trend of our child welfare system which is based on the "reasonable efforts" provision that implies that every family can be "fixed" and a biological family, regardless of the severity of its dysfunction, is always the best place to raise a child. I have seen far too many loving and happy adoptive families with children adopted from abusive homes to believe that. There is a placement of choice for every child. The placement may be back in the child's own home, if investigation proves the parents have *learned* rather than simply *complied* with the services they have received. It could be adoption if the biological family can not be saved. However, our current system, instead of focusing on the best interest of the child, directs its attention on the adults. The rights of the adults override the needs of the child. In my opinion, reuniting a child with an abusive parent is nothing less than ordering a beaten wife to return to live with her abusive husband. The abused wife is no longer seen as the property of her husband. It is time we free our children from similar bondage.

Let me tell you a little bit about the children of whom I speak lest you think I'm referring to all the children who come under the supervision of the child protective services. I'm not talking about children whose parents keep a dirty, cluttered house or who don't know how to prepare nourishing meals or have no food in the refrigerator. Nor are they the children whose parents love them but need our help in learning the skills to care for their children. Those families deserve our help and our department works

compassionately and determinedly to provide the services needed to teach them the proper skills to care for their children. It is our duty and moral obligation to help those families help themselves.

The children of whom I speak are the shattered bodies in tiny coffins; the little ones who have been raped; the babies who have been shaken so hard the blood vessels burst in their skulls; the children who have been burned with cigarette butts or set on hot stoves or put in scalding water to "make them behave"; the little faces and bones broken by the people who brought them life or those they allow into their homes.

Generally, the public and state and federal officials continue to regard these stories as rare and tragic events. Let me assure you, from five years experience of working with abused children, they are not rare.

Let me give you just two startling examples of how taxpayer's money is spent on achieving "reasonable efforts" to preserve families. A woman with four felony convictions and who was known by protective services to have abused, abandoned, terrorized and sold one of her children for one year's free rent and twelve hundred dollars cash was flown, on probation, round trip from another state, housed in a motel, provided meals and spending money for weekend visitation with her children. This continued for a period of thirteen months. These children were so traumatized by the visits that they experienced nightmares and bedwetting after the visits. In another case, services were provided for a parent who put her baby's face in scalding water because she was tired of her crying. The child's face was virtually melted and required countless surgeries to try to rebuild her face, but still "reasonable efforts" had to be made and reunification services were offered and visitation, though terrifying to the child, was ordered.

I've told you the problems, now let me tell you some of the recommendations our Children's Commission made that will help our case workers document abuse and establish grounds for early termination, *without reunification efforts* and free our waiting children for early adoption. We have recommended: increased training for protective service workers; field investigations on all complaints; portable computers for field investigations; development of a uniform assessment tool for investigations; increased ability to track families who have moved to avoid further protective services involvement; multi-disciplinary teams of the prosecutor and appropriate specialists to identify and collect enough evidence to sustain the "clear and convincing" burden of proof to terminate parental rights; decentralizing protective service workers to off-site assignments in hospitals that make more than 200 referrals of abuse and neglect per year; development of a data bank with each county prosecutor; and the establishment of a presumption to seek termination of the parent's rights at the first dispositional hearing when certain severe abuse has occurred. These abuses that the Commission determined merit termination are as follows:

> when children have been tortured; there has been severe physical abuse of a child or sibling; a sibling has been killed by the parent(s); the parent(s) has attempted to murder a child or sibling; a child or sibling has been sexually penetrated by a parent; or a very young or severely impaired child has been abandoned by the parent(s). This presumption should also be made in cases when parental rights to previous children have been terminated, or multiple attempts have been made to rehabilitate the family or when substance abuse has been ongoing and has resulted in previous harm to the children and the addiction has proved to be intractable even with appropriate treatment. This presumption that a termination petition should be filed at the first dispositional hearing should only be negated if it can be demonstrated that termination of parental rights is not in the child's best interest.

These are just a few of our one hundred and ninety-seven recommendations that are designed to achieve a permanent family for abused children, whether that is a return to a rehabilitated family or through adoption if the family can't be saved.

But we need your help on the federal level. Without it, we will never be rid of the fear that the federal government may come into our state and tell us that we have not reached that undefined, nebulous standard of "reasonable efforts". We need your support to put into federal law what we have recommended be put into state law. Without it, we are still at the mercy of federal regulators and judicial interpretation. Without federal changes, states will continue to fear that federal money will be lost because we have not met the mysterious and vague standard of "reasonable efforts."

There is such a small window of opportunity to save an abused child. If we allow them to stay in an abusive home for years as we struggle to change their parents, they become damaged. If we leave them in foster care for years as their parents fail repeatedly to change, they become damaged, so damaged that adoption is not possible. When abuse is severe, we must move quickly. Identify it, prosecute it, and terminate parental rights with no reunification efforts. As we are doing this, we should simultaneously and aggressively identify a permanent, loving, adoptive home for the child.

I am the guardian of our vulnerable children by virtue of my moral and my civic responsibility. And so are you, my fellow colleagues. On behalf of every child who shudders when Daddy - or Mommy's boyfriend - opens the bedroom door at night; whose screams are ignored by the neighbors; whose tortured minds and bodies are sick with fear, I ask your help.

Thank you for receiving this testimony today.

Chairman SHAW. Thank you.
Mr. Thomas.

STATEMENT OF R. DAVE THOMAS, FOUNDER AND CHAIRMAN EMERITUS OF THE BOARD OF DIRECTORS, WENDY'S INTERNATIONAL, DUBLIN, OHIO; ON BEHALF OF DAVE THOMAS FOUNDATION FOR ADOPTION

Mr. THOMAS. Mr. Chairman, Members of the Committee, good afternoon.

I am Dave Thomas, and I am here on behalf of the Dave Thomas Foundation for Adoption. Thank you for inviting me to talk to you today. As many of you know, adoption is a subject close to my heart.

I do not claim to be an expert on adoption laws——

Chairman SHAW. Dave, could I interrupt you? I am sorry. Could you pull that microphone just a little closer? We are having a little trouble hearing you.

Mr. THOMAS. OK. How is that?

Chairman SHAW. Tilt it down a little bit.

Mr. THOMAS. OK. Is that better? OK.

I do not claim to be an expert on adoption laws, and there are many people here today who know more about it than I do.

But what I do know is how important it is for every child to have a home and a loving family. I was born out of wedlock and was adopted when I was 6 weeks old, and I know I would not be where I am today without a family to call my own.

I am here today on behalf of the 600,000 children in America who are in the foster care system, including about 100,000 that are available for adoption. One hundred thousand is too many. Even one child without a permanent home is wrong.

Now foster parents are wonderful, and they open their hearts and their homes every day to these children. But foster care was never meant to be a permanent solution, and that is what it has become. Foster children are innocent victims of a system that takes away from their hope and their trust, and it wears them down while they are waiting for a family to love them and a place to call home. Most of them wait years; many their entire childhood.

I believe there is nothing better for a child than to grow up with their birth parents, and everything within reason should be done to keep children with their birth parents, and if and only if it is the right thing to do for the child.

However, too many children remain in homes that are not safe, healthy, or caring. Parents need to accept the responsibility for raising and caring for their children. This is not someone else's job, and it certainly is not the government's job. I would think that we all can agree that government does not make a good parent.

Listen to the odds that the children waiting for adoption are against. Many children go through multiple assessment studies during the adoption process. Why do we need so many studies to learn the same things?

Children are in foster care systems that move them around to four, eight sometimes, different homes and foster homes before they are adopted. I cannot think of anything worse for an emotion-

ally fragile child than to move into a new home several times a year.

I met a little boy in South Carolina who had been in so many homes that he literally could not remember his last name. I met a 13-year-old boy in Chicago who had been in 15 foster homes, and he was sick and tired of being passed around. All he wanted was a permanent loving home, and he was worried that people wanted to adopt babies and that he was too old.

What kind of life is that for a child? What kind of an adult can we expect him to be?

I also met a little girl who told me that she keeps everything she owns, all her toys and all her clothes, in a single pillowcase because she moved so often from foster home to foster home.

These stories need to stop. The numbers keep getting worse, and many foster children in America wait between 3 and 6 years before being adopted. Six years could be half of a lifetime spent waiting to share the love of a permanent family.

I think you agree the numbers are stacked against the waiting children in America. The child welfare system should protect the children first and foremost and ensure that every child has an opportunity to have a loving family and become a productive citizen.

Growing up without your own family is really tough. Experts tell us that children who grow up in foster care are most likely to drop out of school, give birth out of wedlock, go onto welfare, or end up homeless. They also are more likely to enter a life of crime, all because they do not have a stable family that cares about them, one that helps them establish a sense of right and wrong, a sense of self-worth, and pride in who they are.

And the answer to this problem is, one home study, one caseworker, one foster home, and a permanent home in just 1 year. We need an adoption system that lives up to all these "ones", and so do America's awaiting children.

Let me explain. Many adoption communities support these simple goals outlined by the Kellogg Foundation and supported by the Dave Thomas Foundation for Adoption.

Give families the support they need to stay together, but remember that the child's safety is number one. Just one comprehensive assessment should be made for each child and each family. One caseworker or team should be assigned to each child and each family, and an individual who will stand by that child until she or he finds a permanent home.

Children should be assigned to just one foster home and not moved frequently like they are now. And each child should become part of a permanent family within 1 year. We think these ideals are based on common sense and simple understanding. We support them because it is the right thing to do for the children.

This Committee—we ask this Committee to make these your goals as you improve the adoption process. This Committee has the ability to fix the system and to not hold these children hostage. Let these kids know that they are number one in your minds.

Thank you for inviting me, and we look forward to working together with you. Thank you.

Chairman SHAW. Thank you, Mr. Thomas, and I thank all of the panelists for some very fine testimony.

Mr. Camp, you may inquire.

Mr. CAMP. Thank you, Mr. Chairman.

And I think in all of your testimony, what has come through is concern about the "reasonable effort" standard, and I do believe it was meant purposefully to be vague, so that people who actually were most aware of the situation had the discretion to deal with it.

And I just want to highlight, Lieutenant Governor, some of the work of your Commission in trying to establish a presumption to seek termination of parental rights at the very first hearing when certain conditions have been met.

You have in your longer testimony some very specific criteria—for example, when children have been tortured, where there could be a real effort made very, very early on. I think that would go to trying to find early permanency, hopefully within 1 year, Mr. Thomas.

Could you comment on how that is being received or what progress you might have made on that?

Ms. BINSFELD. Of course our recommendations will not be made public until next Tuesday when we present our report to the Governor.

But we worked with the Ingam Bar Association, and we worked to be sure that legally we would be able to recommend that we have changes in Michigan's law which would require that under these particulars, which we cite on page 6 in the long testimony—when these egregious crimes have been committed against a child, that at that first dispositional hearing, they can start the termination of parental rights, and there would not be services for reunification because, believe it or not, much of the public testimony that we received was about children who had been badly scalded, whose parents had attempted to murder them, that had been sexually penetrated—various degrees of serious harm to children—and they were being either left in that home while there was service being delivered to them, or they were taken out of the home and put in foster care and delayed and delayed in foster care while all of the services to rehabilitate the parents were going on.

Mr. CAMP. Is it also the commission's recommendation that in order for the State to further define "reasonable efforts," you would need changes at the Federal level in order to implement this, or is that somewhat unclear?

Ms. BINSFELD. We believe that it would enhance the welfare of children and the protection of children if Congress did define it.

Yes, I know at the State level we like to have flexibility in the way we can use funding, and one size does not fit all. You hear that from us very frequently. But we are finding that in the justice system and with all of the—all of those who are involved in the care of children, that we are continually threatened by them saying that the Congress will not—they may cut off our funding, which we seriously need, that you have provided in the Welfare Act of 1980. And so in order to dispel that, it would be very helpful to the States if you were to define "reasonable efforts."

Mr. CAMP. Thank you.

Mr. Thomas, I know you have traveled the whole country on the issue of adoption. And are you hearing that the "reasonable efforts"

problem is a barrier at times? And if not, are there any other particular barriers to adoption that you would like to highlight for us?

Mr. THOMAS. Well, I think the ones I have talked to is, foster care—they stay in foster care too long. And I think that what I said in my testimony was that you really need to get them out in less than 1 year and have one welfare or social worker or a team working with a child and make it as short as possible, because what happens in a lot of States and cities, it seems like they just stay right in the foster care for a long time, and they just go from home to home, and it is really not fair.

Mr. CAMP. Thank you. Thank you, Mr. Chairman.

Chairman SHAW. Mr. Ford.

Mr. FORD. Thank you, Mr. Chairman.

Mr. Miller, I am sorry I was not here when you gave your testimony, but I looked at one of the paragraphs in your printed statement. You talk about the special needs of children who are in foster care, and you talked about how expensive for families it would be for them to adopt, and the government provides no assistance for families wishing to undertake this responsibility.

You go on to talk about the lack of basic support available, but foster care children who are eligible for Medicaid would lose their Medicaid coverage.

Is it your concern that children should carry Medicaid coverage from a foster care home to an adoptive home? Is there any other form of assistance that you have a concern about?

Do you think this is a strike against these children in foster care, as there is an attempt to move them into an adoptive home?

Mr. MILLER. Well, I think at that time certainly we modified the system. But at the time, if you talked about a child with special needs, in many instances we were talking about a child with some physical handicaps or maybe mental handicaps.

Who was going to absorb the costs for their ongoing needs—and we had parents who would want to take the child, but they did not have the financial wherewithal; they simply did not have money to absorb those costs.

We see this issue now—and I think you addressed it when we had welfare reform in this Committee—about grandparents.

Unfortunately, because of drugs, we have now many grandparents who are in their early sixties who are inheriting the children of their children because their children are unable, unwilling, or should not be allowed to care for these children. And the question is, where does the AFDC payment go?

The dysfunctional parent can use a child to get payment and not take care of the child, but it is difficult sometimes to get to transfer that payment to a grandparent who, again, has no financial wherewithal to take care of the child, but with a little help from AFDC could provide a loving home. It is their grandchild; it is their grandchild.

So, Medicaid, AFDC, the payment support system for children with special needs, or in some cases, just children where there is a lovely home waiting where we—you know, we would make these payments forever to the dysfunctional parent or the abusive parent or whatever, but we will not help out the new adoptive parent for some period of time.

We have got to find a ramp, so that, as Mr. Fawell says, if we can get the child free for adoption, what is the ramp to integrate that child into the family, so financially they can make that transition?

Obviously, health care is the biggest problem.

Mr. FORD. So, you are suggesting that health care should go with the child.

Mr. MILLER. Yes, absolutely.

Mr. FORD. And the same would be true of other benefits that the child would qualify for.

Do you think that would reduce the number of children in foster care?

Mr. MILLER. I think absolutely it has the potential for doing that. You know, there are a lot of wonderful people out there who desire to take children, but do not have the finances to do so.

And we have got to think about the fact that we are probably spending the money anyway, and we are probably spending it with less return in terms of the benefit to the child. We ought to think about how we transfer those resources to the adoptive parent or grandparent or what have you to provide for the care of the family.

I think both in the discussions of welfare reform and in discussions of Medicaid reform, we really have got to keep that in mind, because sometimes it is a little bit of money that allows people to make the decision to go forward with the action, and certainly in the case of special-needs children.

Mr. FORD. Mr. Thomas, could I get you to respond whether or not these large numbers of children who are in foster care should carry some of their benefits with them. For example, if the family that is adopting would not have proper private health coverage would you support the child carrying Medicaid coverage to the adoptive home?

Mr. THOMAS. I do not think I am really qualified to answer that. I just know that being an adopted person or adoptee, that I know that you need a permanent loving home.

Mr. FORD. I know you mentioned the $5,000 tax credit once before when you testified before the Committee.

Mr. THOMAS. Right.

Mr. FORD. I mean, that carries with it——

Mr. THOMAS. And we have done this in our—at Wendy's we have put adoption benefits in for all of our company people, and we have had 24—we have had about 24 people to adopt so far.

You know, it is expensive to adopt. And we have talked to different States and cities and companies, and we are still continuously talking about adoption benefits to encourage people to adopt.

Mr. FORD. Yes. Loving families sometimes come in—at the lower end of the financial ladder.

And, I think that the adoption that Mr. Miller was talking about, would be assisted if the child would remain eligible for the benefits. Families who are poor, working families that might not have all of the things that would be necessary to care for a child with special needs, would need additional income.

Mr. THOMAS. Right.

Mr. FORD. Although such a family would not be able to adopt, it could provide that love that would be needed for some of these children—

Mr. THOMAS. Right. That is absolutely right.

Mr. FORD. OK. Thank you.

Mr. MILLER. You know, if I might, again in this Committee, you have had under discussion sometimes—you think about what do we do with the job training money, the tax credits to try to get people from public assistance to jobs, and do we want to let the States design a package that could go to an employer and say: Here is an incentive to take this person on as an entry-level worker and what have you.

The same sort of thing sometimes: I think we have got to think about families, that there is a lot of money that is being spent out there in some ways, and sometimes it is disorganized and what have you.

Do we want to provide the ability for the States, as they put together services for what reasons and for adoption, a package of incentives to help people who may be, you know, wonderful people, but basically middle class, and they may not have great health insurance themselves, to take on a child with ongoing health needs, and it is just a barrier? They cannot do it for the sake of their own children or their natural families, if you will.

Thank you.

Mr. FORD. Thank you, Mr. Chairman.

Mr. Thomas, by the way, I supported the $5,000 tax credit.

Mr. THOMAS. Thank you. We just need the President to sign it and get it through the Senate. Right, Senator?

Chairman SHAW. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. Miller, just to follow up on the Medicaid following the child, it should be limited to just the child, just the adopted child in the new family, if the family means are already taken care of, the other family members?

Mr. MILLER. Well, if the family has the finances that is fine.

I know of a number of instances with families where there was not proper disclosure, or what have you, and they inherited a child with serious health problems that taxed their current health care policy. The care of the child created tension within the family.

You know, the people who make these decisions, I do not believe, make them for financial reasons. But there are financial barriers where you just have to look at your own family situation, and say, can we take this child and do this?

Mr. COLLINS. I think that is a good point. I really do. I did not mean that in a negative way. I think you make a good point there.

Senator DeWine, some advocates think that we should establish a time limit for a social service department to rehabilitate a family. Once the time limit has passed, the department would move quickly to terminate parental rights and place the child in adoption.

Do you think we should have a time limit in the Federal or the State statutes?

Senator DEWINE. Congressman, Mr. Chairman, I think one of the great tragedies that I have seen over my professional career—and I started as an assistant county prosecuting attorney about 20

years ago and saw a lot of these cases—and the thing that shocked me then and continues to shock me today is how long it takes us, as a society, to make a final decision to say, we cannot fix this family; we have got to move on.

The point has been very eloquently made here today by several Members of the Committee and several of the witnesses. I think Congressman Miller said it. You know, 6 months for a child is an eternity.

We have eight children. Our youngest is 4 years old. Her personality was very distinct at the age of 2, even 1.

While we take a lot of time in our court system, and we go through all of the paperwork, and we do all of the things that we think we have to do, the child is growing up, and the child is losing the chance to be a child. The child is losing the chance to grow up in a home.

And as we look at the whole question about "reasonable efforts," I think we do have to consider that we have 16 years of experience with that now. And the fact is, this law is being interpreted by courts, by social workers, to in many cases do things—it causes them to do things they would not do otherwise.

The example I gave of the—I made up an extreme example where I said you have seven kids; they have all been taken away from this mother and father; she is still on crack; he is still a drunk; and there is no indication that either one of them is going to change; that eighth child is born—what do you do?

Now any reasonable person would say: Well, let us move, and let us try to get that little baby adopted.

And yet, what I find time and time again when I talk to the counties is, they basically—one social worker expressed it to me very well—said, I am not allowed to use history as a predictor of the future, because I have to demonstrate, when I go into the court—the way my judge interprets this Federal law; the way my judge interprets it—I have to have a plan for family reunification, and I have to have started down that path toward that family reunification, even when I know and everybody with any common sense would know there is not one chance in a million that we are ever going to be able to fix that family. They have to do it.

And I do not think that was ever the intent of the authors of the bill. And I think what we ought to look at—and I am not sure what the precise language should be—but it seems to me that we ought to signal—we should signal from Congress to the people who are out in the field, who have to make the decision, that the best interest of the child has to take precedence, and the safety of the child has to take precedence.

Family reunification is very important. It is a laudable goal, we all want to try that. But if you look at the situation and you come to the conclusion that this just cannot work, then let us move on. The unintended consequence of this law—and it has done a tremendous amount of good—the unintended consequence is, many people are interpreting it rightly or wrongly—I think wrongly—that they have to go through the hoops and loops and do all these things, even in cases where they absolutely know there is no chance of fixing that family. That is the problem.

Mr. COLLINS. Well, then, I take it that you are saying after—and that was very good——

Senator DEWINE. And I appreciate——

Mr. COLLINS [continuing]. That there should be some directive, a timetable, for those who are trying to make those decisions out there.

Senator DEWINE. I do. I do. And I apologize for not coming——

Mr. COLLINS. Oh, you did a good job. That is fine.

Senator DEWINE [continuing]. To the answer very quickly.

One of the things that the law of 1980 has is some time limits in there, which I think have clearly helped.

People in the field tell me that those have helped. I think we need to move further, though.

Mr. COLLINS. Thank you, sir. Thank you, Mr. Chairman.

Chairman SHAW. Thank you, Mr. Collins.

Mr. Miller, you and several of the other witnesses made reference to drug abuse as being one of the big—problems—family problems, which I think anyone who has studied the question would certainly agree with you on.

Drug addiction, when you really have a hardcore addict, even where there is treatment available, the success rate is very, very poor. I mean, it is way down in single digits.

But when you get into a situation like that, where you have a child that has actually been abused, and it was abused while the parent was under the influence of drugs, and the parent is a drug addict, and there is not a sober parent, responsible parent, to give custody of this child to, what is your thought with regard to expediting the termination of parental rights?

Mr. MILLER. That is probably the toughest question you could possibly ask, because each of these families are different.

What I do not think you can do, in dealing with a person who is currently addicted or a person who is in treatment—certainly with a person who refuses treatment, which is prima facie evidence of another problem—you cannot put the child at risk in that situation.

But, if you had a drug addicted parent that did not abuse the child but, maybe, was not able to take care of the child because of the addiction.

That does not mean that the parent does not love that child. If you want to take that child and put the child in foster care and immediately put that parent into treatment—the test is whether or not that parent is in treatment or not, and that works out fine. You want to go for some period of time to see if that is the case.

If that does not work out, I think, as Senator DeWine said, at some point you do have to decide; there is just not the makings of a family here, and what makings you do have, put the child at risk.

The biggest problem we have, I think, for the social service system and, particularly, for the workers is; you are damned if you do, and you are damned if you do not. You can get sued either way on either side of this question. You can get sued because you took my child away, and you put him over there, and I want my child back. And if you put the child back into the home and something happens to the child, you can get sued that way. It is not a very good choice for those people. We have seen highly visible cases where

someone, you know, is going to be held accountable at some point when these things hit the paper.

When we wrote this law, we were not aware that a drug epidemic would affect intact families, because it had not hit us yet. That phenomenon overwhelmed foster care and adoption and a whole series of systems that we had originally set up.

And that is why I welcome this review, because you have to look at it in this context. I was looking through all of the clippings. And that question was much easier to answer in 1980 than it is today, because in some cases it was different drugs.

Chairman SHAW. There was no crack cocaine in 1980.

Mr. MILLER. Essentially that is the problem. There was not. And the behavior and the addiction and the ease of accessability to that drug has changed the whole nature of this.

And, you know, I refuse at this moment to believe that "reasonable effort" is driving all of the problems with child welfare systems, but I also believe that "reasonable effort" is open to review. You know, I do not want to let a review of "reasonable efforts" drive more than it can, because I think there are some elements of this requirement that maybe are inconvenient for the social service agency but really good for the child, and we ought to make sure that we do not throw those out, because this—you know, this should be child centered.

Chairman SHAW. Mr. Fawell.

Mr. MILLER. I did not give you an answer yet.

Mr. FAWELL. If I could just add one point, I think when it comes to termination of parental rights, the cards are stacked against the children.

Chairman SHAW. Speak louder. I am having trouble hearing you. I am sorry.

Mr. FAWELL. When it comes to terminating parental rights, I think the cards are pretty much, under the present system, stacked against the children, and it is not necessarily the fault of the welfare agencies.

They do not have the legal expertise. Nobody really wants to tackle that kind of a problem, but they do not have access to the attorneys who are knowledgeable on this, and the courts are not too interested either.

So as a practical matter, unless there is somebody out there who wants to adopt that child and there is really interest, nobody is going to—nobody is going to ever try to buck the feeling that termination is just—that is hot stuff. You just do not see much movement in that regard.

That is why I feel that when you have a child utterly abandoned when that child comes into this old world of ours, that you are in the position of saving that child. And there, at least, one can reasonably say: We can present this to a court of law for adjudication quickly; that is, the question of termination of the parental rights of the parents who have abandoned that child.

But once that period is over, I think you have lost it then. And that is where the children stagnate. Nobody is about to take that legal problem on.

And I cannot blame the welfare workers. They just are not going to do it.

Chairman SHAW. Well, I think we are all very sensitive to the rights of the parents and reunification and how important that is.

But to see this through the eyes of the child is something that is quite different, and I see the common vein going through all the witnesses' testimony, that the rights of the child have to be considered first and foremost and the safety of that child.

In listening to Dan Burton speak of his very troubled youth—he talked about being subject to parental abuse. And, I am not telling any secrets, he has said this in front of this Committee.

He had an abusive father. And at some point in his life, he was telling me how he had stayed in an orphanage. I think it must have been just a facility to place him in while some things—some turmoil was going on—because I think, he then was placed back with his mother some time later—but he mentioned to me that people would come through the orphanage looking for children to adopt and how some of his friends, when the people would go through and they had been rejected, that they would just lay down and cry.

It is pretty tough. When you think of—you know, we take family for granted. But to think how tough that would be as a child and how sad that is, it is almost like a pet store approach, and it is so sad when you think that these beautiful children and wonderful kids who just want to be loved and want nothing more than a family are rejected and how tough that is on them, it makes your heart really go out to them, which brings me back to Mr. Thomas.

In your testimony, you said: I do not claim to be an expert on adoption laws. And there are many people here today who know more about that than I do. But you have a personal story which you shared with me briefly before we started this hearing.

If you would like to give us some of your background and how you saw it through your eyes as a child who was to be adopted?

Mr. THOMAS. Thank you.

I was adopted when I was 6 weeks old and to a couple in Michigan. And my adopted mother died when I was 5 years old, and my dad remarried. And then he moved through about four States and three stepmothers, but I had never seen my biological mother and father, and I did not really know I was adopted until I was 13 years old. I was very hurt when I found out. I never felt that I was the same as everyone else.

I went from school to school, and, you know, again I decided to leave the foster family when I was 15 and go on my own. And I dropped out of school, which I should have never done, but I was telling——

Chairman SHAW. But you went back!

Mr. THOMAS. Beg pardon?

Chairman SHAW. But you went back.

Mr. THOMAS. I went back 3 years ago and got my GED, and I was adopted right outside of Fort Lauderdale—what school did I tell you it was?

Chairman SHAW. Coconut Creek.

Mr. THOMAS. Coconut Creek High School. I forgot for just a minute. And the class of 1993 voted me "Most Likely to Succeed."

Chairman SHAW. Save that! [Laughter.]

Mr. THOMAS. And I went to the prom, and I was the King and the Queen. [Laughter.]

But, the thing that I have really found is, as you see these children, they will not even look at you.

And I feel so sorry about anyone that does not really have—and I know what I missed in my life, because I—not knowing my biological mother and father—and I would have given anything in the world to meet them—and I did when I got out of the Army, and I did try to look up my biological mother—but I did find her father, which is my grandfather and my grandmother, and I did spend—I guess I—before they passed away, maybe 3 or 4 years, but it still was not like seeing your own mother and father.

But I just know that when you do not have family, and I know that I have five children and 14 grandchildren, and I know what a family—what I missed as a child. And I just feel so sorry for kids that enter this system on a temporary basis, and it becomes permanent.

I think the social workers do a fantastic job. But when you have had too many too long, it is just not fair for these kids, and it is a lifetime, when you talk about how some of these kids go from foster home to foster home, and then to a social worker, it is just not right.

I think we need to adopt what the Kellogg Foundation has been working on, which has been one social worker, 1 year in foster care, and from there, into a permanent home.

But there are a lot of things I do not have the answers for. The bottom line is that every boy and girl deserves a permanent and loving family.

I wish I had all the answers, Mr. Chairman.

Chairman SHAW. Thank you, Mr. Thomas, and I thank the entire panel, and I would like to compliment you, Mr. Thomas, for your corporate responsibility and incorporating into the Wendy's structure such encouragement. It certainly is a most responsible thing to do, for which I think you have set the standard for other corporations to follow.

Mr. THOMAS. Thank you.

Chairman SHAW. Our next panel will be Judith Goodhand, Ph.D., executive director, Cuyahoga County Department of Children and Family Services, Cleveland, Ohio, and she is accompanied by Patricia Newell, who is a foster parent from Cleveland, Ohio, and Deborah Benn, a birth parent from Cleveland, Ohio.

We also have Sister Josephine Murphy, administrator of the St. Ann's Infant and Maternity Home in Hyattsville, Maryland; Patricia Warenda, who is a grandmother from Fort Lauderdale, Florida and, I might say, a constituent of mine; and Robert Dean, who is a foster parent from Omaha, Nebraska.

I would like to point out that there is a hearing going on on the floor on most-favored-nation status for China, which is also in the jurisdiction of our Committee, and which explains why some of our members are unable to be two places at one time.

Ms. Goodhand, please proceed as you see fit. We have all of your full statements, and they will become part of the record of this hearing.

STATEMENT OF JUDITH GOODHAND, DIRECTOR, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, CLEVELAND, OHIO, ACCOMPANIED BY PATRICIA NEWELL, FOSTER PARENT, CLEVELAND, OHIO, AND DEBORAH BENN, BIRTH PARENT, CLEVELAND, OHIO

Ms. GOODHAND. Thank you, Mr. Chairman and Members of the Subcommittee. I am Judith Goodhand. I am the director of the Department of Children and Family Services in Cleveland, Ohio, and I have worked in child protection for 24 years.

I began in Knox County, Ohio, which is a very small rural county; I later moved to an agency in Toledo, and for the past 4 years, I have directed the county agency in Cleveland.

Currently, my agency must respond every month to 1,500 new reports involving children who are abused, abandoned, homeless, hungry, or toxic with drugs at birth. We take custody of close to 300 children each month, and on any given day, we are seeking adoptive families for 700 waiting children.

These are very different circumstances than existed in 1972 in Knox County or even in Cleveland, when we often removed children from their homes to foster care for the slightest of reasons. We took children from their parents too easily and, worse, we kept them indefinitely. In that process, we often lost touch with where and who they were.

In 1972, we did not have 15,000 homeless children on our streets and in our shelters in Ohio, as we did in 1994. We had never even heard of crack cocaine, which did not hit our streets until the late eighties.

The threats to children are significantly different and greater in 1996 than they were in 1972, and the decisions we are called on to make are much more complex. As this Committee opens this discussion on the reasonable efforts standards for agencies such as ours, I ask you to please keep in mind the pressures on social workers every day to make the right decisions about when to remove the child, when to reunite the child with the birth parents, and when to permanently sever the ties between the two.

Social workers need sophisticated training and a broad range of knowledge and tools and skills to protect children today. Our response to that first notice of an incident of abuse or neglect is critical. We must be thorough investigators to determine the appropriate action.

A child's safety must come first. In Cleveland, we now use a structured risk assessment process to help social workers in determining the level of risk to that child. Our goal is to make sure that the most serious cases get quick and intense action. We need to have access to a broad range of preventive services based on what is best for the child and the family, including family preservation. We also need a wide range of placement resources for children who just are not safe in their own homes. We need to provide services to foster and adoptive families who care for our special-needs children. And above all, we must be able to provide adoptive families for those children who can never return home.

There is no one response or service that is appropriate for every child or every family. We need both home-based services, like family preservation and out-of-home services such as foster care.

We often hear and read about what does not work—the child who is not removed and dies of abuse; the child who is reunited and reabused. We do not hear very much about the thousands of children who remain safely in their homes because they receive appropriate services, which is why I urge you to hear well the testimony of Pat Newell and Deborah Benn, who join me here today. They are successful because our system worked for them and for their children. They represent the thousands of children and families who are in safe, secure and stable homes because of systems that worked.

And we rarely hear about the other risk—the risk of growing up without a family, separated from home, brothers and sisters, schools and friends, when children are removed unnecessarily. A review of reasonable efforts should not just focus on just family preservation or reunification or adoption services, because we need all of these services to respond to different levels and different kinds of risks. Most of all, we need safe, secure, permanent families for our children. No system is perfect. We need to improve and reform our system.

In Cleveland, we have been very fortunate to have private funds to assist us in our reform effort. Thanks to a grant from the Annie E. Casey Foundation, we have developed a new program called Family to-Family, which trains foster parents who live in the same communities or neighborhoods as the birth parents. The birth parents and the foster parents work as a team with the social worker for changes to allow that child to return home or, in some cases, to be adopted by the foster parents. This process involves a whole network of community and neighborhood supports for these families.

The key to keeping children safe is to choose the right resource in each case. We know that some children cannot be protected in their own homes even with family preservation or other resources. I do not know anyone who has ever claimed that family preservation is right for all families. But we also know that foster care does not always provide the stability, the commitment or the nurturing that all children need. And I know, with great sorrow, that if we are not able to find adoptive families for the 700 children in our permanent custody, they will grow up without families of their own.

Children need families. We must make reasonable efforts to help families break the cycle of violence, to learn to discipline children without abusing them, and to stop neglect, which is too often related to poverty. As a society, we cannot afford to take children from their homes, breaking family ties, just because they are poor.

If you look at the child welfare system through the eyes of a child, reasonable efforts require reasonable services. Yes, we must do what is best for the child, but permanent families, whether birth or adoptive, are best for children and young people. In fact, we all need families.

Specifically, on barriers to adoption, there are a number of things that could help children who wait too long for families, and I have included several of these items in my written testimony.

Ohio is very lucky to have several national foundations investing in us and helping us to reform our system. Both the Family to-

Family Program, sponsored by the Annie E. Casey Foundation, and the Families for Kids initiative by the Kellogg Foundation are identifying important best practices to approve the child welfare system and foster care and adoption.

We now know a lot more about what parts of the system can be fixed and the new and improved tools we need for reform.

I want to thank you for preserving the entitlement which IV-E maintenance and administrative dollars give to our children in foster and adoptive placements. But we also need to assure that there is a wide range of family preservation services for our children as well. We need both resources and technical assistance to help us to develop and support adoptive families for special-needs children.

I am well aware that this is not a good time to come to Congress and talk about funding needs, but out of the 24 years of my experience in working with children, I am telling you that the situation for our children today is desperate, and they do need your help.

I want to thank you for this opportunity to testify.

[The prepared statement follows:]

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Human Resources
E. Clay Shaw, Jr., Chairman

Written Testimony of Judith Goodhand
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I am Judith Goodhand, Director of the Department of Children and Family Services in Cleveland, Ohio and I have worked in children's services for 24 years. I began my career in Knox County, Ohio, a small rural county of 45,000 people, later moved to the county agency in Toledo (population: 350,000) and, for the past 4 years, I have directed the county agency in Cleveland. So for 24 years, I have known the rewards and the pain of developing children's services under a broad range of circumstances and conditions.

Today in Cleveland we are working to improve and reform our system in response to dramatically changing conditions. Currently my agency must respond every month to 1,500 reports involving children who are abused, abandoned, homeless, hungry or toxic with drugs at birth. We provide services to almost 60,000 children and their parents each year, take custody of close to 300 children each month and on any given day are seeking adoptive families for 700 waiting children.

These are very different circumstances than existed in 1972 in Knox County or even Cleveland when we often removed children from their homes to foster care or institutions for the slightest reasons. We took children from their parents too easily, and worse, kept them indefinitely. In that process we sometimes lost track of where, and who, they were. In 1972, we did not have 15,000 homeless children on our streets and in our shelters in Ohio, as we did in 1994. We had never heard of crack cocaine, which did not hit our streets until the late 1980's.

The threats to children are significantly different and greater today from what they were in 1972, and the decisions we are called to make are more complex. As this Committee opens discussion on the reasonable efforts standards for agencies such as ours, I ask you to please keep in mind the pressures on social workers and other professionals every day to make the right decisions about when to *remove* the child, when to *reunite* the child with the birth parents, and when to permanently sever the ties between the two. Social workers need sophisticated training and a broad range of knowledge, tools and skills to protect children today. Our response to that first notice of an incident of abuse or neglect is critical. We must be thorough investigators to determine the appropriate action. A child's safety must and always does come first. In Cleveland we use a structured risk assessment process to help social workers determine the level of risk to that child. Our goal is to make sure the most serious cases get quick and intense action. We also need to have access to a broad range of *preventive* services based on what is best for the child and the family, including family preservation, drug treatment, health care, and parent training. If a child needs to be removed to be safe, we need a wide range of *placement* resources for children who aren't safe in their own homes. We need to provide special services for those foster and adoptive families who care for special needs children. And we must be able to provide adoptive families for those children who can never return home. Mr. Chairman and members of this Committee, there is no one response or service that is appropriate for every child, or every family. We do not have a one-size-fits-all system. We need both

home-based services, such as family preservation, and out-of-home services, such as foster care.

We often hear and read about what *doesn't* work: the child who is not removed and dies of abuse, the child who is reunited and reabused.

We do not hear very much about the thousands of children who remain safely in their homes because they received appropriate services, which is why I urge you to pay close attention to the testimony of Pat Newell and Deborah Benn, who join me here today. They are successful because our system worked for them and their children. They represent the thousands of children and families who are in safe, secure and stable homes because of systems that worked. And we rarely hear about the other risk: the risk of growing up without a family, separated from home, brothers and sisters, schools and friends when children are removed unnecessarily. A review of reasonable efforts should not focus on just family preservation or reunification or adoption services. We need <u>all</u> of these services to respond to different levels and different kinds of risk. Most of all we need safe, secure, permanent families for our children.

There are successful programs which protect children at home, and others which place them outside of their homes in foster care. We need to build on these new models. In Cleveland we've been very fortunate to have private funds to assist us with our reform effort. Thanks to a grant from the Annie E. Casey Foundation, we have developed a program called Family to Family, which trains foster parents who live in the same or nearby communities as the birth parents. Birth and foster parents work as a team with social workers for changes that will allow the child to be returned home and, when that is not possible, to facilitate adoption. (Sixty percent of our children are adopted by their foster parents.) This process involves a whole network of community and neighborhood supports for these families, and builds on a partnership with the private sector.

Our first goal is to keep children safe from harm and we must use every resource available to do this. The key is to choose the right resource in each case. We know that some children cannot be protected in their own homes, even with family preservation or other resources. No one has ever claimed that family preservation is right for all families. But we also know that foster care does not always provide the stability, commitment or nurturing that all children need. And I tell you, with great sorrow, that if we are not able to find adoptive homes for the 700 children in our permanent custody, they will grow up without families of their own.

I firmly believe that children need families. And that we should make reasonable efforts to help families break the cycle of violence, learn how to discipline children without abusing them and stop neglect, too often due to poverty. As a society, we cannot afford to take children from their homes, breaking family ties, just because they are poor. If you look at the child welfare system through the eyes of a child, reasonable efforts need reasonable services.

Yes, we must do what is best for the child, but permanent families, whether birth or adoptive, are best for children and young people. We all need families.

Specifically on barriers to adoption there are a number of things that could help children who wait too long for families.

Wendy's and the Dave Thomas Foundation have done a good job developing public/private partnerships around the country with child welfare agencies. With a grant from the Families for Kids Initiative of the W.K. Kellogg Foundation, nine counties are working together on a special Wendy's recruitment project in northern Ohio focusing on five key outcomes described by Mr. Thomas. Quite frankly, the proposed legislation passed by the House on tax credits would not really help children in foster care who are waiting for families. There are

important issues Congress and the government can do on adoption. Over the past twenty years, you have identified many of these problems, but it is time to take another look at what is working. Specifically in the areas of:

- Technology and uniform data collection: Most child welfare agencies still rely on paper systems to track their children and families. Computerization has been too slow in coming to our field. This is why so many children can literally get "lost" in the system. Good management information systems and improved data collection and utilization technologies are key toward identifying problems and finding solutions for the backlog of children in the system. We are just beginning this process in Ohio and it is a hard one. Each state should not have to recreate the wheel, over and over again on MIS systems and data collection. Congress has taken action in this area over the last ten years. But we need more and better technical assistance given the rapid advances in this area.

- Recruitment: The U.S. Department of Health and Human Services' Adoption Opportunities Program provides funds for developing recruitment campaigns featuring special needs children legally free to be adopted. Under this excellent program, our county developed a set of materials that I would like to submit for the record as an example of what others are doing around the country. The program is under-funded and still is just a "pilot." But much more can and should be done. The Federal government could provide ongoing funds for national and regional recruitment efforts. Just as the Army asks people to "Be all that you can be" or the Parks Service has Smokey the Bear telling people "Only You Can Prevent Forest Fires," we could use some leadership on foster care and adoption utilizing both mass media, radio and television spots, and on-going, child-specific recruitment.

- The backlog of Waiting Children: In Ohio and many other states, the log jam for kids in foster care and permanency comes during the home study process. We must be thorough in our investigations when certifying foster and adoptive families. The public expects us to set high review standards and to ensure that children in foster and adoptive homes are truly safe, secure and stable. But a good home study costs between $600-$1200. I fear that without additional resources to help relieve the backlog of children in foster care, we may never find enough homes for all the children who need them.

Ohio is very lucky to have several national foundations investing in us to reform our system. Both the Family to Family program supported by the Annie E. Casey Foundation in six states and the Families for Kids Initiative by the W.K. Kellogg Foundation in 11 states are identifying important best practices to improve the child welfare system in foster care and adoption. We now know what parts of the system can be fixed and the new and improved tools needed for reform.

I urge you to preserve the entitlement which IV-E maintenance and administrative dollars give to our children in foster and adoptive placements. But there is more Congress can do: we also need to assure that there are adequate funds to support family preservation, prevention services, drug treatment, health care and other services. And finally we need both resources and technical assistance to help us in developing and supporting adoptive families for special needs children. I am keenly aware that it is not a good time to come and talk about additional needs. But out of the 24 years of my experience in working with children, I am telling you that the situation of our children today is desperate and they need your help.

Chairman SHAW. Ms. Newell.

STATEMENT OF PATRICIA NEWELL, FOSTER PARENT, CLEVELAND, OHIO

Ms. NEWELL. Thank you, Mr. Chairman and Members of the Committee. I wear two hats as I sit here before you. I am an administrator for a neighborhood family resource center located in the Glenville community of Cleveland, Ohio; I am also a licensed foster parent for the last 5 years.

I came into contact with Ms. Goodhand by way of the neighborhood foster care initiative which is part of the Annie E. Casey Family to-Family grant. I have my written testimony here, and I am sure that those of you who have had an opportunity to read it are familiar with what I have to say.

My story, in brief, is about one young man who came to live with me and my husband 4 years ago. His name is Damu, which I had a difficult time pronouncing. I tell people that the first couple of months that I had him, I had to keep telling myself that his first name is a curse word, and if I can think of that, I can think of his name. We have affectionately come to love Damu very much.

Damu is now with his mother, and it would be too long and too exhaustive to give you a total descriptive chain of events that led up to that, but I do need to say that as I sat here today and listened to some of the testimony that preceded us, it sent a chill up my spine when I heard the statement that we should possibly look at terminating parental rights within 1 year's time. I just actually panicked, and I thought: That is a harsh, harsh statement to make. I understand that it was made out of much love from major advocates for children, but what I thought about was that if Damu's mother's rights had been terminated, within 1 year, she would not be at home with her son as I sit here in Washington, DC, before you today.

Damu's was a situation where his interests were best served by going home. He was one of nine children, a middle child, and quite frankly, was very happy to come to my home because my husband and I had no children and plenty of resources. He was a very intelligent young man, and he assessed that very quickly, decided he had no use for the rest of the family members probably the first week he was in my home; never wanted to see siblings, never wanted to see anybody, which was really a mystery to me because I did not understand how he could not want to see any of the nine children that he had spent the first 10 years of his life with.

What we discovered was that Damu was just looking for a way out of a situation, instead of being given the skills to deal with that situation. At Family-to-Family, we created a situation where I could begin working with his mom. And I really need to say that before I met his mother, I probably thought I was a better parent for him than she, and I based that in large part because I knew that I had resources that she did not have.

One day, we set up an appointment to meet with her, and my life was just radically changed after that. Her son walked into the room, and I watched the interaction between them, and I watched her eyes fill up with water as she grabbed him to kiss him. I looked at that, and I said to myself—many Myrtle Beach vacations later—

I can never replace what she just did. I can never give that child what she just gave him. And in fact, in my written testimony I state that I had never done that; I had never physically engaged him in that way, and especially as he started becoming a young man, a teenage boy, I was very aware of some boundaries, so I was also keeping myself back from physical interaction which he as a child probably really needed, as any child does.

In closing, I just want to leave you with one statement—and I said this before some folk in Columbia a couple of months ago who also were helping make some decisions and shape some legislation—probably in my 40 years of living, I have never done anything more decent and humane and dignified than to help this woman get her son back. It was tireless. It was hours and hours of helping her do the most basic things as to figure out that she had to get her gas and lights cut back on with the gas company, that you actually have to go and present information to them that she was not clear on how to do.

As an administrator of an agency, having her just show up at random in my center—which I had basically encouraged her to do—sometimes was a problem. But when I saw her face when she realized that there was actually hope that her son could come home, and her other five children who still remain in custody, I knew that this was worth whatever it took.

Adoption is an absolutely wonderful thing. I want to make that real clear. I want to also say that I am actually someone who would probably adopt. The reason my husband and I went into foster care was because we had already had three miscarriages and were actually not sure we could have any children of our own; so, I sincerely would have been a candidate for adoption and still, hopefully, am. I do not want to suggest that I do not think it is very, very valuable, because I know that it is.

All I want to say is that it is not the only answer. If the biological parent is given the right support, then going home can be a good decision for the child. Going home certainly has been the right decision for Damu Bridges.

Thank you.

[The prepared statement follows:]

STATEMENT OF PATRICIA NEWALL
CLEVELAND, OHIO
JUNE 27, 1996

Thank you Mr. Chairman, members of the committee for inviting me to testify concerning this vitally important subject which is one that is very dear to my heart.

I wear two hats as I sit before you today. I am the assistant director of St. Martin De Porres Family Resource Center, a private nonprofit agency in Cleveland, Ohio, and I am a foster parent. Our agency was selected as one of the two sites to pilot the Family To Family Neighborhood Foster Care Initiative and I had no idea at that time that as a result of that contract my life was about to be radically changed. In fact my very soul was about to be challenged.

My husband and I opened hearts and our home to a scrawny little 10-year-old boy named Damu Bridges on May 28th 1992. We had no idea at that time how long we would have Damu with us and that seemed relatively unimportant to us. We had no children of our own at that time and we had plenty of room in our home and in our lives for little Damu. Damu was the middle child of a family of nine children and, needless to say, he was enjoying all of the attention lavished upon him by our family and friends. He would often ask us if we could adopt him so that his last name would be Newell like ours. I would always respond by telling him that his parents loved him very much and that they had not given him to us -- that they were only asking us for a little help while they got their lives back in order. Having a professional background in the field of drug treatment I was able to talk to Damu about his father's chemical dependency without ever putting his dad down. Damu never talked much about his mom at first. I later found out that she had abandoned Damu and his brothers and sisters about six months prior to the children being taken from the home by the Department of Children and Family Services. He had a great deal of anger locked inside about his mom leaving him and the other children.

Well, having given you a little background information about Damu I need to talk about how the Family To Family Initiative affected us. An important part of the Family To Family agenda was to begin to bring about more interaction between the foster family and birth parents. I was concerned when I heard this concept being tossed about. After all I had not become a foster parent thinking I would ever have to interact with the child's parents. I knew that this could be risky not to mention potentially dangerous. However, being the type A personality that I am I stepped up to the challenge. I determined that I would be willing to meet Damu's parents as a sort of test case. I would arrange for the meeting to take place at St. Martin De Porres, a safe place, on my own turf. I remember that day vividly. I was a nervous wreck but I tried to appear to be in control. I waited in my office busying myself with paperwork, having given my staff instructions to notify me when Mrs. Bridges entered the building. Finally, the moment had arrived, and out to the main lobby I went. There sat this very docile unassuming little woman. She looked so very scared and I remember thinking that she looked nothing like I had imagined. Up to the conference room we went, not saying a word to one another in the elevator. We sat around trying to make small talk until Damu was brought from school by his social worker. Suddenly there was a knock at the door. Damu walked into the room with a timid look on his face and what I saw after that would change my life. Mrs. Bridges looked into her son's eyes and pulled his little chin toward her and kissed him. It was a gesture that only his mom could make. I could provide Damu with shelter, clothing and food but I knew at that moment that she had just given him something that I could never give him. I was moved to tears just watching her tenderness with him and his respect for her. I didn't know how I would be able to help but I knew that Damu needed to be with his mom.

Four years later on June 17th 1996, Damu Bridges went home. Adoption is a wonderful thing and I applaud the efforts of those who make it happen, but it is not the answer for every child. In reality, there may be too many barriers for adoption of a 15-year-old African-American male. For Damu, permanency was achieved when he went home to his mother. Damu's mom will need a great deal of support and I have pledged to give her that support so that this reunification will be a successful reunification.

In closing, I plead with you members of the government that in our effort to contain cost, and keep children safe, we do not decimate the resources that should be available to provide the supportive services to families to preserve them and to protect children when they cannot protect themselves.

Chairman SHAW. Ms. Benn.

STATEMENT OF DEBORAH BENN, BIRTH PARENT, CLEVELAND, OHIO

Ms. BENN. I would just like to thank you, Mr. Chairman and Members of the Committee, for inviting me here to testify before you.

I am a mother of three. I am also a recovering mother as well. My father was an alcoholic, and I witnessed domestic violence between my parents. As an adult, I was living with my two sons and their father, working and doing well, except I was in a violent relationship. I stayed in this relationship for 6 years. His harassment caused me to get fired, and I became depressed, and one night, I was introduced to crack cocaine.

Within 3 to 4 months, I became addicted, but told myself that I could quit at any time. Finally, things got worse, and I was evicted from my home. My kids and I moved in with a drug-using friend, and I became pregnant by this person.

I had no running water, no gas, no heat. I lived this way for 1 year. I left because of the abuse, and my children and I slept at a bus shelter that night; it was very cold.

Then, Children's Services became involved. My kids were placed in foster care, and I was referred to drug treatment. I was in treatment for 6 months, and they were in foster care for 1 year. I was referred to family transitional housing, and during this time, my children were able to have overnight visits with me.

My oldest son came home first, and when he came home, I got a chance to meet the foster parents, who lived in the same community as I did. She became a great support. Within 90 days, I had my children back.

I lived at family transitional housing for 2 years, and I went back to school to get my GED. During this time, I applied for a Habitat for Humanity house, where I have lived for 2 years, and was hired at family transitional housing to work with children of recovering parents.

I am a part-time student at community college, and I also train new social workers and foster parents for Children and Family Services. My children are recovering as well. My oldest son is in the 10th grade, carries a "B" average and plans to be an architect. My second child is in the 8th grade, is a straight "A" student, and is in the Upward Bound Program at Case Western Reserve University. My daughter is 8, and she is also doing well in school.

It was hard, but because my social worker believed in me and made the effort to help me, I was able to get my children back. I do not know where I or my children would be today if this effort had not been made.

I just want to thank you all again for coming here and allowing me to share my story. It was really hard for me to take my kids down to human services, but it was something I had to do, and I thank God today that there were people out there to help me. There are many women who need help. I was raised in a family with domestic violence, and due to my situation, I do not blame anyone for it. I thank God today that someone was there to help me. There are many women where I work today who have been ad-

dicted to drugs or came out of situations of domestic violence, who through the county and through supportive services like this, have achieved their goals in life and are still working on some of their goals today.

Like I said, through the support services and human services, this has made a big change in my life and in my children's lives as well. And I thank God today that I can see my children and that I was given a second chance to get my life together and become the mother that I should be.

Chairman SHAW. Thank you.

Sister Murphy.

STATEMENT OF SISTER JOSEPHINE MURPHY, ADMINISTRATOR, ST. ANN'S INFANT AND MATERNITY HOME, HYATTSVILLE, MARYLAND

Sister MURPHY. Chairman Shaw, I would first like to thank you and the Committee for having me here, but I also want to thank you for having this hearing on this very important issue because I feel that for years we have swept our children and all of their problems and troubles under the rug.

I have been in child care for 40 years, and at St. Ann's for 8 years, and I have never before seen the horrible degree of abuse and neglect that I see with the babies and children at St. Ann's.

I am very happy to be here today because I am extremely concerned about where we are heading with our children. We are feeding the jail system. I walk through St. Ann's, and I look at the babies there, and I say, "Darling, if I come back in 20 years, I can probably meet you down at the DC Jail."

So, I feel that we have got to do something about it—I am not talking about statistics, I am talking about human beings. These babies are human beings, and our teenage moms are human beings, and our babies and young moms are being horribly abused.

St. Ann's had a 2-week-old baby that had gonorrhea of the throat. We had a 2-year-old baby that had to have stitches for vaginal lacerations because she had been raped. We had a 2-year-old girl whose mother and boyfriend had poured scalding water over her. We had a little boy who came to us, and his chest was all burned. We have babies that come into St. Ann's where people have put cigarettes out all over their little bodies. We had a 10-month-old baby, and I have also seen older children, ages 6 and 7, with their little backs torn up, not any more from just a little whack from a hair brush, but from electric cords, which make deeper cuts.

If you have never seen these little backs, and if you do not know how long it takes to heal, if you have never seen the anguish that these kids go through every time you have to bathe them, and the hurt they endure, you can not understand why—I could just go on and on—I get so upset about the continued abuse. But almost worse than that, to me, is that I have 15- and 16-year-old girls in my maternity programs, young moms in maternity, prenatal and mother-baby. I have been shocked reading some of their records and finding that from ages 1 and 2, many of them have been abused physically and sexually, and we have known about it, agencies have known about it, the schools have known about it, the

courts have known about it, and nobody has removed them. So now, they are pregnant, and they are at St. Ann's, and they feel that nobody cares, and nobody wants them. A lot of these girls can really do well when they are in a structured program, they get into our accredited high school, and in time finish school, many of them go on to college. They finally succeed!

So, I beg you today, I really beg you, and I beg Congress, because they wrote and are responsible for the Adoption Assistance and Child Welfare Act of 1980, to examine this act, which I really think has got to be clarified.

I am not just talking about—although I also mean timelines, too—but I think the act has got to be clarified as to what is a family. Many of the kids at St. Ann's do not have a family. Many of them have a mom on drugs, living in a house with a lot of other drug addicts who move in and out of that house and use these children and abuse them physically and sexually.

We have children who are 5 or 6 years old who have been taking care of a drug mom and other children in the family. A little girl said to me when I talked to her about stealing—she is a great thief, and she is only about 5 years old—"Will you tell me how am I going to feed my baby"—she calls the baby hers—"myself, and my mom, who stays stoned from morning until night if I do not steal food?"

I did not have an answer. I have had kids leave St. Ann's who have begged me not to send them home. A little 7-year-old boy, when I told him that he had to go home because it was a court order, said: "No, you do not have to send me home. You know what is going to happen to me, and you are an adult"—meaning that I should do something about it, I should help him. And yes, I blame our legal system; I blame them probably more than anybody.

We talk about the welfare system, but it is our legal system that is doing these kids in, and I include corporation counsel in that. Many times, cases are not papered, many times, judges do not know all the facts, and this is wrong. We must do something about setting a timeline, and I am not talking about women who smack their children a little bit; I am talking about severe abuse and neglect, and sexual abuse. These children should not go back, but they are going back for the second and third time to the same abuse, many times.

So, we are responsible. We have to tell moms that they must take a stand, they must accept responsibility, and I think it is our legal system that has to do that. So, I beg all of you not just to listen to another group of people talking. I am sick and tired of all the rhetoric and all the meetings and all the other excuses. I beg you to please take some action, to look at the issues, to set goals, to set time lines, to make parents responsible for their children or terminate parental rights quickly and give children permanent homes.

I thank you.

[The prepared statement follows:]

STATEMENT OF
SISTER JOSEPHINE MURPHY, ADMINISTRATOR,
ST. ANN'S INFANT AND MATERNITY HOME,
HYATTSVILLE, MARYLAND

Chairman Shaw and other distinguished Members of the Subcommittee on Human Resources:

Thank you for inviting me to testify before you today as you examine whether the provisions of The Adoption Assistance and Child Welfare Act of 1980 promote adoption in appropriate cases. My name is Sr. Josephine Murphy and I am a Daughter of Charity. I am also the administrator of St. Ann's Infant and Maternity Home.

St. Ann's Infant and Maternity Home began in 1860 and was incorporated in 1863. The Acts of Incorporation were signed by Abraham Lincoln. It began as an infant and maternity home and remains that at present. From it's inception until the present St. Ann's has been a non-profit corporation serving without regard to race or religion. At present it cares for 57 abused/abandoned/neglected children from the District and Maryland. Of these 57 children, 42 are three years of age or younger. Children are accepted 24 hours a day, 365 day a year on an emergency placement basis. There are no requirements except that there is a bed empty. St. Ann's also serves 32 pregnant and parenting single, adolescent young women in their prenatal program and mother/baby program. Infant and regular day care is another program offered to 85 families in the community. We are supported by fees from the agencies that use our services, United Way, Foundations, business corporations and many other friends and benefactors.

I received my M.S.W. from Virginia Commonwealth University and have worked in child care homes as a child care worker or administrator for 40 years. I have been administrator of St. Ann's for eight years.

My testimony will center around some specific cases, some of the problems I see concerning The Adoption Assistance and Child Welfare Act of 1980 and some of my own views about the terrible abuse and neglect of our children.

"Please don't send me home!" This is the cry we have heard more than once at St. Ann's Infant and Maternity Home. It is the cry of little Billy who at age three has suffered severe abuse over a long period of time. When he was just a year and a half old he was taken to the hospital for treatment of third degree burns to the heel and sole of his right foot. He also had a hematoma on the back of his head and bruises on his right jaw. In addition, X-rays revealed old skull fractures. The injuries were inconsistent with the explanation provided by his mother. Nonetheless he was returned home and came to St. Ann's another year and a half later after again going to the hospital and being seen for scrotal swelling and bruises. His buttocks were bruised and he complained of his stomach aching. He also had a rectal fissure and it took almost a year working with the doctors before he had normal bowel movements again. My question is - why was he returned home in the first place after the abuse he had suffered at age one and a half?

"Please don't send me home!" Billy's plea should be a trumpet call to all of us. Never should we send them home - if home means more abuse and neglect. I firmly believe that child protection should take precedence over family reunification. Children need a sense of permanency, some stability and consistency in their lives. They need to be protected and given the same basic right to life, liberty and the pursuit of happiness that the rest of us have. Our legal system that is so quick to advocate and demand through The Adoption Assistance and Child Welfare Act of 1980 that children be returned to their homes fails to take sufficient time to examine whether family reunification is appropriate in the majority of child abuse cases. Many times I believe, if we are looking to child protection, that it is not. The legal system, and I include Corporation Counsel in the legal system, should take a good, realistic look at what is happening to children and have the intestinal fortitude, when it is needed, to terminate parental rights and place these children in adoption. The time has come, and in my opinion is long overdue, for the legal system to accept it's share of the blame for the continuity of the terrible abuse and neglect that we see in the lives of the youngest members of society coming into care today. Many times the courts assume that the best interests of the child subsist within the best interests of the parent. This is wrong! The best interest of the child or if you will, the safety of the child, takes precedence over the best interest of the parent. I am a proponent of long-term OUT-OF-HOME placement for children until a FULL INVESTIGATION is completed and SUFFICIENT REHABILITATION has taken place. The parent should be confronted with the fact

that this rehabilitation takes place within a stipulated time or the child will be placed in adoption. This stipulated time should not drag on for years but the case should be reviewed in six months to see if the parent is really making efforts to change and accept responsibility. Babies should not have to wait years for this to take place!

I am aware that the present trend of our child welfare system is toward family reunification, believing that every family can be "fixed" and that the biological family is ALWAYS the best place to raise a child. I have listened to too many children and seen too many badly abused babies to ever believe this. I do believe that there is a placement of choice for every child. This may be back in their own homes if investigation proves them to be safe and rehabilitation has taken place. It could be in foster care, in adoption or in long-term homes for children. Children entering the system today, for the most part, are extremely traumatized by physical/sexual abuse. Placing them back in their own abusive homes or in unsuccessful foster placement only damages them further.

The best thing for some abused/neglected children is to go into a long-term facility which is a neutral placement where they don't have to relate immediately to another parent substitute figure. I especially think this is helpful for teenagers who have been so horribly abused for so many y ears that they no longer trust anyone. Mary one of the girls in our maternity program had a horrible early childhood but did well at St. Ann's. Her mother was a drug addict with many run-ins with the law who abandoned her at three weeks of age. Her father was an alcoholic who was given custody of Mary and soon remarried, letting the child believe the woman was her biological mother. He was abusive to both his wife and daughter and a divorce soon took place. Mary was devastated when she learned this woman was not her mother and was leaving her. At age eleven Mary began taking care of herself and doing what she could to run the house. Her father suddenly stopped drinking but then began to sexually abuse her. She went to a counselor at school for help and her father was put in jail. She was placed in the home of her father's former wife and that placement did not last long. From there she went into foster care. Mary says of her foster mother, "It was hell living with her". She ran away and went from shelter homes to girls' homes. She developed an "I don't care" attitude. She got pregnant and her boy friend left her - alone and with no place to go. She knew of St. Ann's and sought help there. Mary did well in both the maternity and mother/baby programs, finished school and got a scholarship to college. Many young people, like Mary, wind up in the shuffle of the welfare system, going from one home to another feeling rejected each time they are moved, feeling unwanted, unloved, and that nobody has time for them. In general they feel they are a nuisance to everybody and that the world wouldn't be in the mess it's in if they had never been born. Hence the increased rate of teen suicides. However, over the years I've seen many desperate teens blossom when placed in long-term care and given a chance to stabilize and feel they belong.

As I reflect on what's happening to these adolescents and young children today I come to one unavoidable conclusion: They are present day slaves. I hate to use the word since I thought slavery had ended in our country years ago. I was mistaken. It has just changed its focus. Those in slavery today are our children.

I see it in their eyes when they come into our home. It's a heart-wrenching look of defeat and longing. I can't explain it, but I've seen it hundreds of times. It's become a constant image in my prayer - the eyes of Christ in this distressing disguise. It's what I imagine the look of the slave was, this child with no hope.

They are the little chattels of their mothers who hold the power of life or death over them. They are the slaves of people's perversions, whims and frustrations. They are beaten, burned, bartered, sold, used and abused - just as the slaves of years ago. I worked with a young girl in Virginia who had been traded, like a slave, by her mother for a transistor radio when she was just a few weeks old. In a few months her new mother did not want her anymore and gave her up to the welfare department. She should have been adopted as an infant but instead spent all of her life in the system going from placement to placement.

We see these little slaves often at St. Ann's. Many of them are sexually exploited to gratify the passions of adults who are obsessed with sex; .....Alice, a little two year old who had to have stitches for vaginal lacerations because she had been raped.
Kathy, two weeks old, came to us withgonorrhea of the throat.
Pam who at 15 months of age suffered from venereal warts. She had been sexually abused by her mother's boyfriend and needed surgery because of it. Surgery was scheduled but before it took place she was discharged to her mother and right back to the same situation.

They are burned, oh yes, they are burned. That's what happened to Ben who came in with both hands so badly burned that we sent him to the hospital because the nurse on duty thought his hands were infected. He was hospitalized for six days while the hospital staff worked on his hands. When he came back to us we were told by the hospital that they were not water burns but that his hands had been held over an open fire. When his mother came the following week to visit him he took one look at her and raced off down the hall screaming. He and his brother both accused their mother of abuse, and the aunt admitted that there had been long-term sexual activity between the mother and the boys. Yet they were released to their aunt who had been around while all this was going on and done nothing.

Children today are beaten also, but no longer with a hair brush as in years gone by. The implement of abuse now is the electric cord because "loving" mothers and their boyfriends have found out that it inflicts much more pain and the pain lasts a lot longer. Tommy came in at age seven with his back all torn up in this manner. It took months to heal his "mommy sores" as he called them. As he prepared to go home he wanted to know why we were sending him back when we knew what was going to happen to him. Why indeed! I wish I had been able to come up with a good answer but all I could say was that we were not sending him home but had received a court order which meant the judge had ordered us to send him home. It's nothing but slavery!

This does not happen with every child, but it happens too often for any of us to be complacent. I'm not speaking as a burned out social worker but as one who has become incensed about the plight of children today. We freed the slaves once; it's time we freed the new slaves by making child protection and nurturing the number one priority in our courts, schools and homes. If we do then maybe we won't be trying eight and ten year old children as adults for murder. I don't think age matters, it's just getting big enough and strong enough to do the job. We had a seven year old little boy at St. Ann's who was looking forward to the day he would be big enough to kill his mother's boyfriend who beat him and his younger brothers and little sister and sexually abused them also. They have been back to St. Ann's twice and still the goal is family reunification. Why do we leave children with mothers who can't or won't protect them? Our courts are rather naive to think these moms are going to give up their boyfriends. Maybe we need to clear up the violence in our homes before we can clear up the violence on our streets!

Children are born with a clean slate, all behavior is learned, so what we are seeing played out in our homes, our schools, and our streets today is what they have learned from us - the families, schools, churches, the society that has taught them so well. Children are very quick to learn the bad as well as the good and we are finding that out to our dismay. This is not a minority/white issue, it is not a poor/wealthy issue. It hits all races and classes because our traditions and values, our families have collapsed. Our children are growing up scared, daily exposed to violence and with no support or protection from family because family does not exist for many children. Their family is just a group of people living in the same house and many times these people change rather frequently.

Children have been devalued in our country to the point that their right to "life and liberty" plays second fiddle to their parents' right to the "pursuit of happiness" in whatever form that may take. This devaluing of children occurred gradually and went unnoticed. It began, I believe, when motherhood lost its rightful place as the greatest vocation on earth and fathers became a thing of the past for many children. It began when parents stopped loving and enjoying their children, when they became so caught up in their own pleasureable

pursuits they couldn't even see their children's very basic needs. It began when parents had no time for their children and began to substitute "quality" time for "quantity " time. I had a teenage boy tell me that his parents had given him everything he ever wanted since he had been born except five minutes of their time. He added that he would trade it all in for just a little of their time. We need to speak up for motherhood again whether it be the birth mother, the adoptive mother or the foster mother. What is more important than forming the heart, mind and soul of a child? What profession offers such a challenge or such a great reward?

Every child deserves freedom, the freedom that comes from a happy childhood; freedom from the fear of physical and sexual abuse, freedom from the fear of hunger, freedom from adult responsibilities and worries. Yes, they assume these at a very young age also. They have to just to survive, We took in a little five year old girl and her baby sister and the five year old told us it was hard to realize she didn't have to take care of "her baby" anymore because she had done it since her sister was born. She added that she had also taken care of her mother who, as the child said, "stayed stoned from morning until night". She was also an accomplished thief which means someone had taught her well and she was a quick learner. So we wonder why our jails hold so many juvenile offenders! This little girl is only one among many, believe me. Their emancipation requires our participation in the fight for their basic rights. We have no problem with putting orphans up for adoption. Yet many of the children described above are orphans of the living. Though their parents are alive they are too overwhelmed with their own problems - drugs, alcohol, prostitution and crime - to function as parents in the raising of their children. This gives rise to the terrible abuse and neglect we are seeing today. We wonder about children killing at younger and younger ages. Maybe it's a case of those who have been so horribly neglected and abused finally turning on a society that has treated them so savagely and could care less. Our children are lonely afraid and pushed into adult lives at too early an age. Many come to St. Ann's knowing all about drugs and hiding from the police and living on the streets but they don't know how to jump rope, play dodge ball or ride a bike. Maybe it's time to spend QUANTITY time with them and turn some of them around. Or would we rather continue to leave them to the drug dealers, the rappers and their rock group idols. Believe me these people have plenty of time for them, not because they love them or care about them but because these children represent the almighty dollar to them. It's time to take back the souls of our children and give them all back their childhood. For many it's already too late but adoption could be the road for those that still have a chance.

Now is the time to end this terrible abuse. It's not just stress or the lack of money or health care or the lack of affordable day care that's causing all this. It's our lack of putting some effort into raising children instead of just letting them grow up which is much easier. It's our watering down our educational system until our chilren are bored to tears and find no exhilaration in learning. It's our making a god of sex and not teaching our children it's only a piece of the total love story commitment. We don't need any more reports or congressional hearings. We know the sad statistics. What we do need is for enough of us to get angry, really and truly angry enough to do something about the terrible injustice that is being done to children by returning them to abusive homes and losing another generation to violence and hate. We have to get angry enough to let our legal system and our welfare departments know we won't put up with child slavery any longer. We need to tell our political leaders they should not be talking about human rights issues in any other country until they clean up their own backyard, the backyard that holds the skeletons of too many neglected little bodies already.

I am aware of all the "we care about kids" rhetoric, but I can't help wondering: "Do we really?" Do we care that 1,271 children died last year as a result of abuse and neglect. Do we care that 88% of the victims were younger than five years of age? Do we care that 46% of the victims were one year old or younger? Do we care that most of the deaths were at the hands of parents or caretakers, the very people responsible for keeping the children safe.

Congress and our legal system are set up to protect the rights of ALL our citizens; and children even though they cannot vote, are citizens too. Therefore, those institutions should be the first to take action on behalf of our children in crisis. I feel they need to address the following issues:

THE FAMILY REUNIFICATION ACT should be clarified or changed to put the best interest of the child (child safety) before the rights of the parent. This was an act of Congress, so Congress needs to define what constitutes a family and realize that not every family can be fixed. The rhetoric concerning this Act is great, but the reality for abused children is horrible and cries to heaven for vengeance.

OUR LEGAL SYSTEM must stop sending children right back to abusive and dysfunctional home situations before the home is THOROUGHLY INVESTIGATED and some degree of REHABILITATION has occured. To really insure the safety of the child this should mean that real change has been brought about not just promises made. Our judges, lawyers and social workers have to face the fact that you don't cure a drug addict in a week or a month, and stop acting like this is possible.

OUR LEGAL SYSTEM should set a time limit, a short one, for abused/neglected children to be shuffled around before terminating parental rights and placing those children in adoption. Thousand of children stay in the system for years because judges, lawyers and social workers won't terminate parental rights and give the children a chance at some degree of permanency, stability and normalacy in their lives. Babies need to be adopted when they are babies not when they are older and their little personalities and self concepts have been destroyed.

OUR LEGAL SYSTEM needs to take stronger steps to pursue and prosecute those who murder and sexually abuse children and those who permit it to be done. According to a recently released Justice Department study, most of the crimes against children took place in the home of the assailant or victim. More than three million children nationwide were reported abused/neglected in 1994. Then, of course, there are the tens of thousands of other crimes against children that never get reported or prosecuted. It's easy enough to say children are abused but stop for a moment and think of the pain they endure and have to endure over and over again. Do we want any child to go through this?

Let me say that throughout this article I am talking about severe abuse and neglect and sexual abuse, the kind of abuse that children should never have to endure a second time. I am also talking about a parent who is probably never going to change (we had one child whose mother had been in 19 drug treatment programs), mothers who permit their boyfriends to physically and sexually abuse their children and either take part in the abuse or do nothing to protect the child. There has to be REAL CHANGE. Seven to thirty days in drug rehabilitation and staying clean for a few weeks, going to counseling sessions, coming to St. Ann's on visiting days and getting your little slip in saying you came, none of these things do I see as making a difference if change doesn't occur and the boyfriend isn't really out of the house for good. Promises and talk don't mean anything and don't do anything to change the person or the situatuion. Neither do I feel children have to be returned so mom can keep her housing. We had a very young baby retruned for this reason and came back to us three days later because mom had taken him home and left him locked the apartment alone from Friday until Sunday when concerned neighbors called St. Ann's and were told to notify the welfare department. That baby hadn't been fed or changed during all that time but mom had her apartment. So that's what child protection is all about!

Finally I ask that you DON'T SAY THE WORD MONEY TO ME. It simply infuriates me when we have money for everything else we want including sports stadiums but are always counting the cost of raising children. If it costs so much then how come many poor people raise their children very well on very little. We can't place a money value on our children because each and everyone of them is priceless. I would say though that the mon ey will be spent either when they are older and occupying our jails and prisons. Abused and neglected children are growing up with hate and anger in their hearts and in the future they will feed our prison census ans I think we are already beginning to see. All the money in the world won't help if we don't do something to turn the tide for our children who are drowning in a sea of avuse and neglect that stems from drugs, alcohol, sexual promiscuity and the lack of any family support.

And so I question: When will Congress look at the Family Reunification Act with a "children come first" attitude? When will our legal system hold itself accountable for what's happening to our children instead of blaming it all on the welfare system? When will we as a society see that it is better for our children to worship God than drugs, money and sex? When will we be more concerned with building and updating our educational system than our sports arenas? When will we realize that our children need the loving support of a permanent family? When will we realize that children who are abused and neglected are likely to end on a path that leads to jail? When will we begin to do more than meet and talk?

We say we love children. We say they are the future of our nation. We say they are the most vulnerable members of our society. If we believe it, then we should put some action as well as our money where our mouth is. I'm tired of all the rhetoric, the studies, the meetings and the statistics while our children's lives are wasted and their bodies and spirits broken.

I beg you to please take some ACTION. Thank you for this opportunity.

Chairman SHAW. Thank you, Sister Murphy. Ms. Warenda.

STATEMENT OF PATRICIA WARENDA, GRANDMOTHER, FORT LAUDERDALE, FLORIDA

Ms. WARENDA. Chairman Shaw and other distinguished Members of the Committee on Ways and Means, my name is Patricia Warenda. Thank you for inviting me to testify on behalf of my granddaughter Skye who, on four separate occasions, the courts and social workers have placed in our home because of the treatment that she has suffered at the hands of her biological parents.

I am the maternal grandmother, and on five additional occasions, my daughter and her husband have voluntarily surrendered Skye to our care and custody. Our granddaughter is currently 42 months old. During her lifetime, we have cared for and protected her for 29 months. Seventy percent of her lifetime, she has spent in the safe, secure environment of our home.

Let me briefly give you a snapshot of Skye's situation, which I believe is caused by the Federal law pursuing "reasonable efforts" provisions to keep families together despite chronic substance abuse, child abuse and neglect, and failure of court-ordered family therapy.

Skye was born December 24, 1992 in Sarasota County, Florida. Her biological parents have been unemployed, essentially since her birth, due to drugs. They have been evicted from their apartment for selling drugs to minors.

In May 1994, the Department of Human Resources intervened into the family and removed Skye and placed her with us. The biological parents were ordered to attend family assessment, drug testing and family therapy in July. In September, the court ordered Skye returned with the parents, awarding temporary custody.

This return was based on the belief that children always do better with their biological parents. This return was based on someone's interpretation of a family reunification plan. This return was not based on evidence that the biological family had given up drugs or been successful in family therapy. After all, the removal and return took place in less than 2 months, hardly enough time for a miracle.

Nine months later, the courts awarded the biological parents full custody, despite the fact that none of the prior stated court requirements such as drug testing, counseling or therapy proved successful.

Six months later, Skye is left with neighbors for 1 week, abandoned by her parents with the excuse that they "were going to the store."

Now you see the pattern of abuse that Skye has endured both from her parents and from the social workers who insist on reunification plans. Currently, the Federal law has been interpreted as family rights over children's safety and protection, and whenever that interpretation is made, children lose. Currently, our laws protect the rights of the parents, allowing them unlimited attempts at reunification, without regard to the lack of stability that this creates for the children.

In conclusion, let me say that my case is not an isolated one, but one that represents thousands of children across the country raised

by relatives, grandparents, some raised by foster parents. What is important here is that when children and caretakers have formed bonds, those bonds should not be disrupted. Clear timeframes need to be established to clarify the definition of the reasonable efforts statute.

Thank you for hearing my testimony, and please draft legislation that places children first. Help make my granddaughter Skye the limits of the children trapped in the legal system.

Thank you.

[An attachment to the prepared statement follows:]

CHRONOLOGICAL ORDER OF EVENTS OF SKYE'S LIFE

* December 24, 1992 - Skye is born in Sarasota County, Florida

* August 1993- Skye's biological parents moved from Sarasota to stay in our home in Broward County, Florida because parents were unemployed with no shelter or money for food, maternal grandparent's provided the money needed for food, shelter, and clothing during this period of time

* December 1993- Both biological parent's fired from their jobs for drug abuse, they were evicted from their apartment for none payment of rent and dealing drugs to minors from the apartment

* January 1994- biological parent's living in the back of a van

* January 1994-biological parent's gave Skye over to maternal grandparents while they continued with a lifestyle based on alcohol, drugs, and sexual abuse

* April 1994- biological parent's took Skye to live with them in an apartment with which they shared with 2 herion addicts, the addicts at that time were also charged with dealing drugs. At the age of 16 months Skye was now frequently left alone by her parent's in the house or in the care of the 2 herion addicts who did drugs in front of her

* May 1994- due to reports from neighbors H.R.S. investigates for physical abuse, neglect, nutrition, inadequate surroundings for a minor

* May 1994- as a result of H.R.S. investigation parent's turn Skye over to maternal grandparent's

* June 1994-biological father arrested for buying crack cocaine with food stamps

* June 12, 1994- Skye placed in the emergency shelter of her maternal grandparents

* June 15, 1994- Skye was placed with her maternal grandparents by H.R.S. court order, the court found at this time Skye lived in an environment of documented and admitted open drug use at her parent's home

* July 12, 1994- parents court ordered to attend family assessment, drug testing, and therapy

* September 8, 1994- Skye was returned by the courts to her biological parents under a temporary custody order with the stipulation parents and child were to reside in Broward County to attend the mandated programs recommended by the Child Protection Team report

* September 8, 1994- maternal grandparents are granted liberal, regular unsupervised visitation with Skye by the court

* September 9, 1994- biological father violates court order and returns to Sarasota County

* December 1994- biological mother violates court order and returns to Sarasota County

* February 1995- biological parents receive full custody of Skye via the court, although NONE of the prior stated court requirements such as drug testing, counseling, and therapy were fulfilled by the parents

* February 1995- maternal grandparents granted liberal, regular, unsupervised visitation by the courts

* February through August 1995- Skye resides almost exclusively with her maternal grandparents with occasional visits to her parents, this was due to a variety of reasons in her parents life including;
  * parents had no money for food
  * physical and verbal encounters between parents
  * admitted drug problems of parents
  * unemployment both parents
  * no shelter due to eviction of parents

* August 26, 1995- a neighbor of biological parents in Sarasota County notifies maternal grandparents Skye had been abandoned by her parents 1 week prior with the statement "they were going to the store", maternal grandparents pickup Skye in Sarasota County

* August 28, 1995- doctor appointment for Skye reveals she has head lice, thrush, and a throat infection

* August 27, 1995- maternal grandparents via a phone conversation with biological mother confirmed she had been "drinking heavily, using crack cocaine, pot, and various pills"

* August 27, 1995- biological mother flown to Fort Lauderdale by her parents in an continuing effort to assist in starting over a new life. when mother states she has confirmed proof biological father has been sexually abusing his 15 year old daughter from a prior marriage

* * During this period of time it is discovered by maternal grandparents additional events surrounding Skye while in the presence of her parents these include:

* Skye fell in the swimming pool twice with no adult supervision

* biological father and 1/2 brother hung Skye by her ankles over the toilet dunking her in and out of the bowl for punishment

* Skye was left alone often when she was asleep, while her parents went out

* Skye ate cocaine that had been left out by her parents

* Skye's mother shoplifts in her presence

* parents beat Skye when she gets in their way while their doing drugs

* parents argued with Skye in the car and mother kicked in the windows spraying glass all over Skye

* father threw an alcoholic drink on Skye during an argument with mother

* Skye was asleep in the room during a multi-partner sexual situation of the fathers

* Skye refers to her daddy's "weiner" and her half brothers (age 15) "weiner"

* September 18, 1995- biological mother returns to Sarasota

* October 31, 1995 biological mother has a restraining order and divorce injunction processed against biological father citing domestic violence (maternal grandparents pay for attorney)

* November 14, 1995- H.R.S. caseworker phones to see if Skye was in the custody of maternal grandparents, two visits to maternal grandparents home to visit with Skye reveal in the custody of grandparents Skye is "healthy, happy, safe, and well cared for"

* December 1995- biological mother attempts suicide in Sarasota by slashing her wrists with a razor

* January 13, 1996- biological mother arrives at grandparents home without notice to claim her "bambino" following a scene during which the mother appeared to be under the influence of drugs she removed Skye from the grandparents home, mother stressed grandparents could keep Skye if they gave her a "few thousand dollars"- Skye was removed by biological mother from the care of the maternal grandparents regardless of the fact Skye was sick with an allergic reaction

* January 13, 1996 - January 15, 1996 (Holiday Weekend)- grandparents phone over a dozen agencies (repeatedly) to assist in the safe return of child who was in imminent danger

* January 17, 1996- grandparents request emergency hearing for the custodial status of Skye

* January 19, 1996- emergency court hearing in Broward County judge orders H.R.S. to immediately pickup Skye in Sarasota County 250 miles away, due to the fact "the child was in danger, take it to the media if necessary"

* January 19, 1996 through January 22, 1996- H.R.S. in Sarasota County refuses to honor the Broward County judges pickup order

* January 18, 1996- biological mother leaves Skye with biological father to return to her boyfriend

* January 19, 1996-biological mother's boyfriend arrested for attempted suicide

* January 19, 1996- biological mother arrested for stealing keys to handcuffs, off a police officer in the mental ward, while trying to free boyfriend

* January 20, 1996 -biological father breaks into mother's boyfriends apartment and physically beats her at 4:00 a.m. in front of Skye, whom he had brought with him, while at the apartment uses a construction drill on personal items in the apartment stating "if the boyfriend was hear I would have drilled his brain full of holes, father left with Skye

* January 21, 1996- father left a message on the machine of grandparents informing them he intended to kill the mother and the boyfriend

* January 21, 1996 p.m.- biological mother phoned grandparents requesting their assistance to come to Sarasota County and help her get Skye back because the father had Skye in a crack house

* January 21, 1996- grandparents arrive in Sarasota County

* January 22, 1996- grandparents have difficulty finding Skye contacted the police department to enlist their assistance, the police department could not help without the H.R.S.in Sarasota

* January 22, 1996- mother places restraining order on father in Sarasota County, contacts father's probation officer regarding the illegal actions of the father in this matter

* January 22, 1996- parents arranged a meeting with each other and Skye, the police were notified of the scheduled arrival time of the father, when the father showed up 2 hours earlier than agreed upon, the police were not there to assist, following a hostile verbal exchange between the parents the father drove down the street with the mother and Skye hanging off the side of his truck door, during this situation he attempted to run down the maternal grandmother knocking her to the ground with his truck, mother and Skye fell to the ground and he left

* January 22, 1996- grandparents return to Broward County with Skye bringing the mother and boyfriend with them

* January 23, 1996- while preparing to go to court before the judge, H.R.S. and the police arrived at the grandparents home with a pickup order to place Skye in foster care, this order was based upon the original court order dated January 19, 1996, if the grandparents did not comply with the order regardless of the fact it was an error now that the child was safe, they would be arrested and placed in jail, following a phone call by the grandparents to the judge's secretary the court permitted Skye to be brought directly to court with the grandparents and the H.R.S.

* January 23, 1996- upon arrival in court we were greated before the judge with 6 H.R.S. attorney's from out of the county, 4 H.R.S. caseworkers, and a guardian ad-litem, at that time it was determined that an error had been made by the H.R.S. and a child's life had been in danger for at least the past 5 days, and that "H.R.S. would take full responsibilty for their actions without pointing fingers at anyone in their office, and they would take action so that it would not happen to another child again"

* January 23, 1996- temporary custody of Skye was granted to the maternal grandparents by the court

* January 24, 1996- a doctor's appointment for Skye on this date revealed she had a rash, thrush, 2 ear infections, and a fever of 102

* January 30, 1996- biological father was arrested in Sarasota County for violation of probation, spousal abuse, and usage of crack cocaine

* February 8, 1996- biological father has a court hearing regarding the custodial custody of Skye in Broward County. maternal grandparents were granted temporary, legal, and physical custody of Skye

* February 12, 1996- biological father sentenced with 6 months jail time in Broward County

* February 14, 1996- biological mother is cited for domestic abuse when she beats up her boyfiend in Broward County

* February 22, 1996- following a domestic fight regarding lack of fidelity with the boyfriend the biological mother receives staples in her head wound, the boyfriend is in jail

* March 7, 1996- mother involved in domestic dispute with her brother in law resulting in police involvement and her removal from the premises

* May 10, 1996- biological father released from jail in Broward County early due to over crowding

* June 1996- biological mother is pregnant again, although the biological father had a vasectomy over a year ago

* June 14, 1996 through current- biological father makes harrassing phone calls to the home of grandparents

* June 20, 1996- maternal grandparents are granted a temporary restraining order in Broward County due to harrassing phone calls from biological father- biological father served with restraining order in Sarasota County reflecting he may not call, write, visit, or have any manner of contact with maternal grandparents, Skye, or any of the immediate family

* June 27, 1996- maternal grandmother testifies before the Committee on Ways and Means, Subcommittee on Human Resources, in Washington D.C. regarding the Reasonable Efforts of the Public Law 96-272, The Adoption Assistance and Child Welfare Act of 1980

* July 3, 1996-court hearing in Broward County scheduled to grant the temporary restraining order as permanent for one year

* July 18, 1996 - parents granted scheduled court date, due to letter from biological parents to the judge in the case, dated May 22, 1996 asking for custody of Skye, letter states parents are residing together with jobs, in truth parents were together for less than 2 weeks, both are unemployed, mother is back with boyfriend

In conclusion, our granddaughter Skye, is currently 42 months old, out of that period of time we have had the pleasure of having her reside in our care for 29 months. During these months she has thrived, grown, and experienced love. The remainding 13 months have been spent with one or both of her biological parents. Those months have been marked with tremendous episodes of fear, violence, personal jeopardy, risk, and mistrust. On 4 occasions the court has placed her well being with us. On an additional 5 occassions her biological parents have entrusted her well being in our care. Her family background reflects residing with her parents puts her in an atmosphere marked with domestic violence, theft, narcotics, harrassment, sexual abuse, incest, neglect, abandonment, physical abuse, psychological abuse, and aggravated assault charges as part of the family's background. Currently our laws protect the rights of the parents allowing them unlimited amount of attempts of reunification without regard to the lack of stability these children caught in these situations experience. What constitutes reasonable efforts ? We can't legislate love but why aren't children specifically given the right to a safe, permanent, loving, healthy homes ?

Please help make our grandaughter SKYE, THE LIMIT! Draft legislation that places children first.

Children First,

Patricia Warenda

Chairman SHAW. Thank you. Mr. Dean.

STATEMENT OF ROBERT DEAN, FOSTER PARENT, OMAHA, NEBRASKA

Mr. DEAN. I would like to thank you, Mr. Shaw and Members of the Committee, for inviting me to speak on this issue which is critical to the children, families and future of our country.

My wife and I are here today because we have been foster parents for over 3 years. During that time, we have had three children in our home, a little boy who was burned with a curling iron by his mother, a little girl who was sexually abused by her father, and Ann, whom I will testify about today.

I introduce you to our children because it is important that you understand the circumstances that surround a child coming into foster care. These are children who have been physically, sexually, and mentally abused, neglected and abandoned.

I sit on a citizen foster care review board in Omaha and am repeatedly shocked at the horror that these children live with. Nonetheless, year upon year, they float in and out of foster care or from placement to placement.

Ann, who is now 5, came into foster care at the age of one and a half, because her mother, Debbie, repeatedly abandoned her. Ann was a shy, unbonded child who was very scared and insecure.

For the first 2 years Ann was in foster care, visits were sporadic at best, as Debbie was often on the run or incarcerated. During this time, it was remarkable to watch Ann blossom into a loving, caring child. Ann often asked us, "You are never going to leave me, right?"

One and a half years after Ann entered foster care, her alleged father was awarded visits without having to pay child support or prove paternity. Mike is employed and probably could have obtained custody with a simple blood test. He refused, and visits continue today, after another 2 years. Still, no proof of paternity, no blood test.

Over the course of time, Ann became bonded to our extended family, including very proud foster grandparents, aunts, uncles and cousins. She has become an active family member.

In the fall of 1995, the case plan finally was changed to termination of parental rights, as Debbie had disappeared for over 6 months. We were informed that the case plan was being forwarded to the adoption unit and asked if we were interested in adopting. Of course, our answer was yes.

However, at about the same time, Debbie appeared at a homeless shelter, pregnant again, and determined to turn her life around for the third time.

In November 1995, the case plan was changed back to reunification. We are here today for Ann to talk about reasonable efforts. Because of a cruel system, Ann will be forced to go and live with near strangers as she begins her school years. I understand and I believe in reunifying families, but there is a point when those efforts are damaging to children.

Reunification has got to mean that there is a bond before the tragedy of separation. Reasonable efforts must be tied to strict timeframes, and the best interests of the children should be the first priority.

Upon a recent conversation with Ann's caseworker, he told us that the judge's questions in court center on reasonable efforts. In Ann's case, reasonable efforts were surely met years ago. It simply is wrong that a 5-year-old should be in foster care for 3 years while her biological family ignores its responsibility, especially when that child could have been adopted into a family that already loved her.

I want to stress to you that this story is not unusual. In fact, it is probably closer to the norm. Is it any wonder that we are seeing an unprecedented amount of anger from our youth nationwide? Is it any wonder that 10- or 11-year-old kids look to gangs for protection and love?

In conclusion, I ask you to think of your own children and your own grandchildren. Think of how scared and shattered they would be if, at the age of 5, someone came and took them from you, telling them they will never see you again and that you are not really their family.

I come to you today to ask you to make a difference for these children. Thank you.

[The prepared statement follows:]

Committee:	Subcommittee on Human Resources of the Committee on Ways and Means Thursday, June 27th, 1995 Room 1100 Longworth House Office Building, 1:00 p.m.
Chairperson:	B. Clay Shaw, Jr.
Testimony Submitted by:	Robert Dean, Foster Parent from Omaha Nebraska

I would like to thank you, Chairman Shaw, Ladies, and Gentlemen of the Subcommittee on Human resources of the Committee on Ways and Means for inviting me to speak on this issue.

My name is Robert Dean. I am a foster parent to a little girl who is five years old who has been in our home for almost 3 years. I have seen first hand how a stable loving home has helped this child grow up happy and healthy. I have also seen the pain and confusion this child is suffering while she waits for her mother to prove she can parent this child. She has waited over half her life for permanency; a place to call home with certainty.

For the purpose of this testimony I will refer to her as Ann.

Ann came to our house in late March, 1993. She was almost 2 years of age. She was not yet speaking more than 5 or 6 words and kept a bottle in her mouth at all times. Ann did not know how to use silverware, but could operate a television remote easily. On her first day with us, she sat on the floor, grabbed a bag of chips and can of pop from the refrigerator and pointed to the television and said "watch".

Ann was a scared, shy, 'unbonded' toddler. Prior to being in foster care, she was moved several times, running from police and crawling out of windows with her mother. She was repeatedly left with her mother's acquaintances or relatives too weak to properly care for her. Ann came into the system when her mother left her with a friend and did not return after a couple of weeks. The friend took Ann to her great-grandmother's (Ann's) home. Ann was dropped off without food, clothing, diapers, or any knowledge of where her mother was at. After two months and several unsuccessful attempts to locate her grand-daughter, Ann's great-grandmother called the police.

Ann was placed in our home and we immediately consulted a physician for an uncontrollable, deep cough. We were told than Ann had an extraordinary high level of lead in her blood, 45 (normal range is under 10). The physician stated this is typical for a child that had lived in older neighborhoods, where lead-based paint was chipping off the walls and a baby could put these in their mouth; especially an unsupervised, malnourished, homeless child.

Ann was returned to her mother, Debbie, on 4-6-93; even though she had been arrested less than 1 week before for felony shoplifting. On 8-4-93, Ann returned to our home as the caseworker had found out Debbie was using drugs and alcohol while she was pregnant with her second child, due in early October.

Debbie gave birth to Gloria in September of 1993. At the time of the birth, both Gloria and her mother tested positive for cocaine. Gloria was born 5 weeks premature. Gloria was placed in out-of-home care once she was able to leave the hospital. Gloria has Osteopenia (low bone density) and Hepatitis of the liver. She continues to have problems with her bowels, ears, liver, susceptibility to infection, and food intolerance. She requires careful medical monitoring as any virus, infection, and/or dietary change could place her medical health in jeopardy. Ann was diagnosed as possible FAE, as Debbie admitted to drinking daily while pregnant with her.

Debbie was ordered in juvenile court to complete many services to address her drug addiction, her parenting skills, her ability to find stable legal employment, and her ability to provide a home for herself and her daughters. She was also ordered to attend weekly supervised visits with her daughter.

Debbie did not comply with any of these services and at first she abandoned Ann. Since then her visits with Ann have been sporadic, sometimes she would not show up, other times she was incarcerated.

There is no father's name listed on the birth certificate. However, a man identified as Ann's father, Mike, petitioned the court to intervene in the case in October of 1995. Ann had been in out-of-home care for 2 1/2 years. Paternity has never been established by the court or by genetic tests. A home study on Mike's residence has not been completed. Mike has not completed a bonding assessment nor does he pay child support. In spite of these facts, in 12-95, Mike was authorized by the court to have weekly unsupervised visits for 7 hours. In February of 1996 we learned that Mike had no intentions of pursuing custody or attending further court hearings. Visitation with Mike continues.

Meanwhile, Ann has blossomed while in foster care. She is an outgoing, charming, and helpful 5 year old child. She has quickly become a child with a lot of friends at pre-school/daycare and one who cares deeply for others' feelings. She has developed a sense of pride in doing the right thing and is always eager to please. She has a charming sense of humor and is unbelievably bright.

She has learned the alphabet and can spell and write her own name as well as many others from memory. She enjoys reading, playing games, singing and dancing - so much so, we have enrolled her in a ballet and tap dance class for the last 2 years. Although she can be stubborn at times, testing her new found independence, she will think about her actions and sweetly apologize minutes later.

For seven months, between 2-95 and 9-95, Debbie abandoned the children, she contacted the case manager twice, but left no phone number and did not participate in Court ordered services.

Due to the two years (24 months) of non-compliance with the reunification plan by the mother, the Court on 4-4-95, the case manager on 9-22-95 and the guardian ad litem (the child's lawyer) on 10-16-95 all recommended that termination of parental rights be pursued. The plan for Ann was changed from Reunification to Adoption in September of 1995.

Debbie enrolled in a one-year, New Life Rehabilitation Program on 9-3-95. The program includes a class twice daily, a 12 step program twice weekly, weekly counseling; and weekly parenting classes. She has maintained this program, she completed a 12 week parenting class with Family Services in 2-96 and participates in 5 AA meetings weekly.

Debbie stated she began to comply with Court ordered services in 9-95 because she was afraid of losing her children. She has reportedly been drug free since this time. It has also been reported that Debbie was incarcerated for prostitution just weeks before she enrolled in the program. Currently, the majority of Debbie's time is spent in structured activities, with a network of strong support to assist her. Even so, the caseworker has admitted that she loses her temper with him and is very impatient. Debbie has not yet shown she can be self-sufficient, maintain a stable life-style, support herself and third her baby, while maintaining her sobriety.

Debbie's new son presently lives with her in a 2 bedroom apartment. She receives ADC (amount defined by the number of children living with her), housing assistance, Medicaid, gas money, food stamps, etc. to survive.

Due to this Debbie's spurt of compliance, the new case manager (the fourth casemanager for Ann), has returned the plan for Ann and Gloria, on 3-13-96, to Reunification.

Ann has been left to grow up in out-of-home care for 3 years, or 55% of her life, while her mother has drifted in and out of her life. Ann's only stability has been us, her foster parents (whom she chose to call "mom" and "dad" in late 1994). She is visibly bonded to us and considers our family, friends, pets, home, etc., her own.

Ann is indifferent about the visitation she has with Debbie and Mike. She does not talk about it unless asked. Even when asked, her answers are short and not with a lot of feeling. She will lie awake and ask one of us to 'protect her' or make comments like, "I will miss you", "you're my mommy too, right?", and "you'll always be my mom and dad, that never changes". She seldom sleeps though the night; she will be moaning/crying and saying things like, "they are coming to get me". We let her know that we are there, she reaches over, grabs us, and holds on tightly as she goes back to sleep. On occasion, she has stated, "I couldn't find you, I thought I would never see you again." Ann always asks for reassurance that we will return to pick her up from visits and daycare; and specifically wants to know what time.

In 2-96 a new casemanager, Jim, was assigned to the case. Jim has only met Ann twice (introduced at a restaurant with us and once dropping off papers at Debbie's home) since he was assigned the case. We have asked him to review the file to get a clear picture of the history of the case and to please consider the effects on the children involved. Within three weeks of taking the case, Jim approved visits to occur at Debbie's house before he had inspected the environment.

Visits are not on a set schedule. Ann is taken to visit her mother whenever it is convenient for Debbie. The visitation schedule has been changed and re-arranged often at the very last minute to accommodate Debbie and the visitation worker's schedule. No thought seems to be given to taking Ann out of pre-school or other planned activities she may be looking forward to. In one instance, Ann was taken by Teri to receive medical treatment for a bug bite which made her entire hand abnormally swollen from the fingers to the wrist. A message was left for both the visitation worker and Debbie that the visit may be delayed. The worker did not meet up with Ann and Teri as requested; and the visit was missed. In a phone conversation one-half hour later, Debbie ranted about the visit being missed and how important her time was with Ann. She did not inquire about Ann's condition until the very end of the conversation.

Debbie is scheduled to finish her rehabilitation program in August of 1996. In September she will gain the custody of Ann. She will gain the custody of Gloria in October. Debbie will not have proved the ability to live without the structure her program has provided her, the ability to maintain a job or stable environment, or the ability to parent her children.

Will Debbie be able to lovingly accept that the children she abandoned, have come to know and love other persons as their stable family? Will she be able to gain their trust in her and protect their innocence?

Reunification has to mean that there was a bond before the tragedy of separation. In the case of Ann and Gloria, the facts show they were never "together" before out-of-home placements were found. Reasonable efforts must be tied to strict time frames; and the best interests of the children should be the first priority.

I wish I could say this is an isolated case but it is not. In Nebraska, I volunteer my time and serve on a local foster care review board. I review the permanency plans for children in out-of-home care and along with my fellow board members, I make recommendations to the legal parties regarding the case. My board review cases of children in out-of-home care every month like my foster daughters. My personal experience with my foster daughter and my experience of reviewing hundreds of cases of children from my community has led me to the conclusion that "child protection" and "child advocacy" must be made the primary focus of our child welfare system rather than reunification.

The data collected by the Foster Care Review Board on children in out-of-home care shows that in Nebraska, as of June 18, 1996, out of the 3,360 children in out-of-home care:

- 41% (or 1,360 children) of Nebraska's state wards have been removed from the home for abuse and/or neglect at least twice
- Of the 194 state wards under the age of 5 who have been removed from the home on more than one occasion;

  157 have been in foster care twice
  32 have been in foster care three times
  3 have been in foster care four times
  1 child has been in foster care seven times

- Of the 2,940 state wards returned home during 1995, 336 (11%) were returned to foster care within the first 5 months of 1996.

To preserve families, The Child Welfare System often exerts a great deal of effort on parents who through their actions, (abandonment, disregard to court orders, continued drug use, sporadic attendance to visitation, etc.) tell the professionals involved in the case that they are not interested in parenting their children. These lengthy, expensive and frustrating reunifying efforts hurt the children involved by extending the chaos and instability that may have brought the child into care in the first place.

I believe it is possible to strike a balance between parental rights and best interests of the child. The policy of reunification can be qualified to ensure that parents who are habitual drug abusers, violent physical and sexual abusers, mentally ill, or who abandon their children, are kept to a strict time frame to rehabilitate themselves, if the court determines rehabilitation and reunification to be in the best interest of the child(ren), so the child(ren) have a chance to attain permanency.

I would respectfully suggest to the committee that the qualifications and restrictions applied to the policy of reunification outlined in the Utah Law §78-3a-311, be amended to the Federal Law, P.L. 96-272.

Utah Law §78-3a-311 is as follows:

(1) The court may make any of the dispositions described in Section 78-3a-39, place the child in the custody or guardianship of any individual or public or private entity or agency, order protective supervision, family preservation, medical or mental health treatment or other services.

(2)(a) Except as provided in Subsection (3), whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the Division of Family Services, it shall order that the division make reasonable efforts to provide services to the minor and his parent for the purpose of facilitating reunification of the family, within a maximum time period not to exceed 12 months from the date that the child was initially removed from his home by the division.

(b) Any physical custody of the minor by the parent during the period described in Subsection (a) does not interrupt the running of the period.

(c) At the expiration of the 12 month period described in Subsection (a), a dispositional review hearing shall be conducted by the court in accordance with Section 78-3a-312. If at that time the child cannot be safely returned to the care and custody of his parent without court supervisions, a permanency plan for the child shall be finalized. If the child clearly desires contact with the parent, the court shall take the child's desire into consideration in determining the permanency plan.

(3) Because of the state's interest in and responsibility to protect and provide permanency for children who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited. The court may, under any circumstances, determine that efforts to reunify a child with his family are not reasonable, based on the individual circumstances, and that reunification services need not be provided. In any case, there is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) the parent is suffering from a mental illness of such magnitude that it renders him incapable of utilizing those services; that finding shall be based on competent evidence from mental health professionals establishing that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months;

(c) the minor has been previously adjudicated as an abused child due to physical or sexual abuse, that following the adjudication the child was removed from the custody of his parent, was subsequently returned to the custody of that parent, and the minor is being removed due to additional physical or sexual abuse;

(d) the parent has been convicted of causing the death of another child through abuse or neglect;

(e) the minor has suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known the person was abusing the minor;

(f) the minor has been adjudicated as an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the child to pursue reunification services with the offending parent;

(g) the parent's rights have been terminated with regard to any other child;

(h) the child was been removed from his home on at least two previous occasions and reunification services were offered or provided to the family at those times; or

(i) if any other circumstance that the court determines should preclude reunification efforts or services.

(4) (a) Failure of the parent to respond to previous services or comply with any previous treatment plan, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, whether a parent continues to live with an individual who abused the child, any patterns of the parent's behavior that have exposed the child to repeated abuse, or testimony by a competent professional that the parent's behavior is unlikely to be successful, are relevant factors to consider in determining whether reunification services should be ordered.

(b) The court shall also consider whether the parent has expressed an interest in reunification with the child, in determining whether to order that reunification services be provided.

(5) If reunification services are not ordered pursuant to Subsection (3)(a), and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court may order the division to provide reunification services. The time limits described in Subsection (2), however, are not tolled by the parent's absence.

(6) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for minors ten years of age or older, the minor's attitude toward the implementations of family reunification services.

and any other appropriate factors. Reunification services for an incarcerated or institutionalized parent are subject to the 12 month limitation imposed in Subsection 2 unless the court determines that continued reunification services would be in the child's best interest.

(7) If, pursuant to Subsection (3)(b), (c),(d), (e), (f), (g), (h), or (i), the court does not order reunification services, a hearing shall be conducted within 120 days of establishment of a permanency plan for the child, in accordance with Subsection 78-3a-312(3).

I would like to thank Chairman Shaw, Ladies and Gentlemen of the sub-committee for allowing me, as a foster parent, to share my personal experiences with the child welfare system and the policy of reunification with you.

I respectfully urge you to change the Federal Law, P. L. 96-272, from directing child welfare agencies across the country to pursue reunification in all cases of children in out-of-home care - at all costs, to a policy that considers "the best interests of the child" first and foremost.

Please look at this legislation through the eyes of the children it affects. Every day I see the pain and upheaval in one little girl's life caused by this legislation and its interpretation that parental rights have precedence over what the parents have done or what the child's best interests are. I hope by sharing her story with you, you too will see the necessity of qualifying the pursuit of reunification.

Thank you for your time.

Chairman SHAW. Thank you, Mr. Dean.

Chairman SHAW. Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman, and I do want to thank all of the witnesses for your very important testimony. It is very helpful to us.

Sister Murphy, we heard that the Commission on Children in Michigan is going to be recommending some specific situations where reasonable efforts—where there will be a presumption that parental termination can occur at the very first hearing, and they involve the most serious of cases, similar to the kinds that you mentioned.

Do you think that that will be enough, or do you think that time limits are also important to have—and we are talking, of course, about the most serious cases. Do you think those are needed as well?

Sister MURPHY. I do think time limits are also needed because I have worked in many States, with all ages and both sexes, and I have actually seen children who were raised from birth to graduation from high school at 18 years of age, in the system, one little girl who, as a baby, was traded for a radio by her own mother to a neighbor because the mother did not want the baby but wanted the radio. The neighbor kept her a few months and gave her to the welfare system. I had that child when she graduated from high school. She could have gone out of the system when that second woman turned her over to the welfare system; there was nobody else who wanted her. But she never had any parents, and she never got out of an institution. That is only one case, and I am not going to waste your time with a whole lot of them, but there are many more.

I personally feel that a mom should be given 6 months to start shaping up, and at the end of 6 months, I think the case should be reviewed, and if mom is still into drugs and has made no effort to do anything about herself, then I think parental rights should be terminated, and that child should be put up for adoption.

The reason I speak so strongly for the young child is because, believe me, at St. Ann's, I have 5- and 6-year-old children who are hardly going to make it in a home outside unless they get some help, so, they are ruined. And if we let them float in the system until they are 7 and 8, you can just forget it.

That is why I think we have got to do something about timelines, and also, we have to clarify, and I strongly suggest that we clarify what is a family. Most of the kids at St. Ann's do not have what we call a family, I do not think.

Mr. CAMP. Thank you.

Mr. Dean, I practiced law in this area and represented both parents and children, and the kind of situation you have been living is not uncommon at all. And when it is the most serious of crimes, I think it is easier to look at a dramatic cutoff and a timeline.

What advice do you have for the Committee as we look at the kinds of situations like you have been facing? When do we decide that the parents are not committed and that it is time to move on?

Mr. DEAN. I think there are probably a couple of things that need to be looked at. One is that I think the age of the child does make a difference. Certainly, the parents should have much less time

with little children than perhaps with older children who have had some time to create a bond. Even though that bond may not be a real quality bond, it is some sort of a bond.

Little children—I do think there must be some absolutes. Without absolutes, it is just up to everybody's interpretation. And part of the problem is that each judge interprets things a little bit differently. In our case, how can anybody make the case that almost 4 years in foster care is anywhere near reasonable? It is not in her case. She did not see her father for 2 years when she was in foster care—almost 2 years—and her mother has repeatedly abandoned her. There is nothing reasonable about it.

So, I do think there has got to be some set timeframes that have to be met. Without that, I think you just—in our case, what happened was that Ann's mother, every time we would have a court hearing, would come back and check into a drug treatment center, or she would check into a homeless center or something, and that would be just enough to get through another 6 months inside the system. And repeatedly, we offered—we said we would adopt her, we would assume all the expenses with that—anything—we would have done anything.

I did not have a chance to go into it today, but Ann has a little sister who was born a crack-addicted baby.

Mr. CAMP. I saw that in your written testimony.

Mr. DEAN. And she was not in our home because she needed to be in a home where they were able to provide her with 24-hour-a-day nursing care. But we offered the same with her, to keep her and her sister together and take care of them. We would have done anything, any amount of money would not have made a difference, and still would not.

Mr. CAMP. Well, that is one of the concerns I have. No matter what we write into the law, it is going to be implemented by the courts and by others, and there is an inconsistency there, and some courts and some judges are willing to make decisions, and others are not. Some get the adequate information, and others do not. It is very difficult.

I see my time has expired. Thank you, Mr. Chairman.

Chairman SHAW. Thank you, Mr. Camp.

Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

Ms. Warenda, the picture of Skye with a smile on her face—I assume that picture must have been taken at your house?

Ms. WARENDA. Yes, it was.

Mr. COLLINS. The other children in the picture are grandchildren?

Ms. WARENDA. My grandson.

Mr. COLLINS. That is great. I happen to be the proud grandfather of five, with the sixth one on the way.

In your testimony, you document a very tragic story of Skye and the fact that the Federal law keeps requiring her to be returned to her abusive parents. Do the courts and the social workers give you any specifics as to why they make plans to return your granddaughter to the biological parents?

Ms. WARENDA. Yes. They tell me reasonable efforts, that as long as the biological parents show some interest, even if it is just a

telephone call, a card, or asking information from other family members, it is considered reasonable effort.

Mr. COLLINS. Have you dealt with more than one social worker?

Ms. WARENDA. Yes, I have.

Mr. COLLINS. Do you see varying approaches by the different social workers, or are they all kind of in line with each other?

Ms. WARENDA. That is a difficult question. I have had a social worker who at times believed that the child's biological parents' rights should have been terminated; however, when it was told to the HRS attorneys, it was a different story. He said he had to abide by the law.

Mr. COLLINS. Are these social services that the biological parents have been provided by the social worker?

Ms. WARENDA. Yes, most definitely. They have had therapy at McDonald's; they have had parenting classes which consisted of one class, not by a certified teacher; they have had many, many opportunities with drug rehabilitation; they have paid an agency in our area, after showing up once in 9 days, to have a paper signed indicating that he was drug free. They were given urine tests, which they considered urine "drops," I think. They call them ahead of time, notify them to come in on Friday at 4 o'clock. They spend $30 and drink a special tea so the urine specimen comes back clean.

The father also used his 14-year-old son's urine when the 14-year-old was straight—he isn't anymore. The biological mother at times refused to have the test taken because she said she was not requesting them and would not pay for them.

Mr. COLLINS. That is all I have, Mr. Chairman. Thank you very much. I thank each of you for your attendance and your testimony.

Sister, I have heard about your home, and I would think it would be very interesting for Members of the Committee to someday visit with you. Thank you very much.

Sister MURPHY. Thank you.

Chairman SHAW. Ms. Benn, you have heard the testimony of some of the other witnesses. You have testified about a case where family reunification has worked very well. Could you tell us what your attitude was from the day your children were taken away from you and how long they were away from you before they were brought back, and at what point did you go into drug treatment?

Ms. BENN. At the time that I took my children down to human services, they had come out a couple of times. The social worker was very nice. She was willing to work with me, and she told me that she would set up a case plan, and within 1 year's time, I had to follow the guidelines in the case plan that she set up.

At that time, she gave me a referral for treatment, and my children were placed in foster care. They stayed in foster care for 1 year, and I stayed in treatment for 6 months.

After I completed my case plan, I went back to court, and they said I did what I was supposed to do, and I was still working hard. I had to find housing, affordable housing. At that time, they let one child come back at a time, but at the same time, the support services were still there, and they had worked together with family transitional housing, which is another program with support services. So the support services were there, and the foster parent was

there as well, working with me. And like I said, within 90 days, I did receive my kids back.

It was hard—I think some people do not really understand cocaine addiction and that it can be hard—it has to be within that person to want to make a change in his or her life, and for me, that is what I wanted. I wanted another chance. I knew I could be a good mother, and I just wanted another chance to get my children back and be the mother to them that I had not been.

Through treatment and social services, it helped me. I think a lot of parents just need a chance. I am not saying it should be 6 or 7 years down the line for them to get their lives together, but at the same time, I feel they need a chance. I do not know the timeframe. I know the timeframe for me was 1 year because I really wanted it, and I worked with family transitional housing, and I worked with——

Chairman SHAW. The timeframe may have been 1 year for you, but what you are telling this Committee is that you started out on the road to recovery upon the realization that you were going to lose your kids, and you realized you had hit bottom, and you started to pull yourself up right from the beginning. Is that correct?

Ms. BENN. Yes.

Chairman SHAW. It took you 1 year to climb out of that hole, but you made it.

Ms. BENN. Yes.

Chairman SHAW. Based upon that, I do not see your story or your position conflicting with what Sister Murphy is saying or what Mr. Dean is saying, because you were showing a real desire to come back, and that certainly was reasonable cause to hold your children for family reunification and not sever the parental ties that you had with those kids.

I ask you this because I do not want the record to show that the other witnesses were being unduly harsh because your kids would have had reunification, I think, under the scenario and under the opinion that has been expressed by the other witnesses.

Mr. Dean, I find somewhat of a dilemma here with your story, and the dilemma is simply that we have heard other witnesses on the other panel talk about the tragedy of moving these kids from one foster home to another. As I heard that testimony, I turned to Dr. Haskins and I said, "How much of this goes on and why?" And he said in some cases, it is the norm because the purpose of doing that is to keep the kids and the foster parents from becoming attached to each other, and that appears to be exactly what has happened in your particular case.

If you end up being the adoptive parent of this child, then it will have been for the better, but if you do not become the adoptive parent of the child, it is going to be very tough on you and the child.

It is a terrible dilemma that this Subcommittee finds itself in. In my opening statement, I said something about the wisdom of Solomon. As I recall in my Bible, Solomon threatened to cut the baby in half before he figured out which parent was the proper person to take that child. Obviously, we cannot look to the way Solomon approached it, but we certainly need some answers here, and this panel has done a great deal to tell us the tragedy of what happens when things go wrong.

And Ms. Warenda, as a grandfather, I certainly understand the feelings that you have, and the fact that you do see that this child is at risk with her biological parents, and I wish the courts the wisdom of Solomon in trying to figure this out. By the way, Skye looks a lot like you.

Ms. WARENDA. Well, thank you.

Chairman SHAW. Thank you all.

Mr. Camp.

Mr. CAMP. Mr. Chairman, what I also heard from Mr. Dean's testimony was that maybe there will be a separate standard the younger the child, or a different time limit the younger the child. And maybe, the time limit would vary as the child gets older, and maybe also based on the severity of the abuse. I think that was very helpful. Thank you. I want to thank you for that.

Chairman SHAW. In my opinion, though, if you look at something like what Sister Murphy has told us about the 2-year-old youngsters who show physical evidence of having been raped—at that point, I see no parental rights that should be protected. I mean, that child is gone from that home as far as I am concerned, you would not even want to think about putting that child back in that home. The only thing you would think about as far as that parent is concerned is how many years should that parent be put away for doing such a horrible act in an inhuman way.

I thank all of you for being with us.

Chairman SHAW. Our final panel includes Hon. D. Bruce Levy, Administrative Judge in the Juvenile Division, 11th Circuit, in Miami, Florida, which makes him either a constituent of mine or something very close to that; David Liederman is executive director of the Child Welfare League of America, Washington, DC; Laureen D'Ambra is a child advocate for Rhode Island, Providence, Rhode Island; and Peter Digre is Director of the Department of Children and Family Services for the County of Los Angeles.

Judge, if you would lead off, we look forward to your testimony. We have your full testimony which will be made a part of the record, and we would invite you to summarize or proceed as you see fit.

STATEMENT OF HON. D. BRUCE LEVY, ADMINISTRATIVE JUDGE, JUVENILE DIVISION, MIAMI, FLORIDA

Judge LEVY. Thank you for the opportunity to be here today. Let me apologize; I did not have an opportunity to prepare written testimony for today. I will submit it later, and I would ask the indulgence of the Committee——

Chairman SHAW. The record will be kept open for you and for all witnesses who might want to present additional comments.

Judge LEVY. For just a few moments, being the only judge on this panel and hearing the broad sides that have been made at the judiciary, initially, I have to agree with Senator DeWine. We must accept a lot of that responsibility; that when Public Law 96–272 was passed, the idea of the reasonable efforts test I think was made specifically vague, with the idea that it would be applied differently to different situations, different locales, but in effect what it did was to cause a tremendous amount of confusion throughout

the judiciary. And there have been efforts to remedy that, but I do think there is need for improvement.

There has been a lot of comments about having to view this situation, which is such a complex situation. I think, looking through the eyes of a child, everyone is in agreement with that. I asked that a picture be brought up earlier—does the Subcommittee have that—I do not think they knew who I was, so your staff was reluctant to take the picture—that is it. I would ask that you take a look at that for a moment and pass that around.

Do you think that that child would be adoptable?

Chairman SHAW. I think they would stand in line for that child.

Judge LEVY. That is my child, and I took that child with me to a foster care event in Dade County, because I go to those events as the administrative judge, and she was there, most of the population were termanated parental rights, TPR, cases, and were available for adoption. I would say they were 98 percent black or African-American, and there was a group of potential adoptive parents there—they sat on one side of the room, the children were on the other side of the room, and most of the people wanted to know if they could adopt my daughter, but not many people came up to the minority children and were concerned about them. One little 12-year-old who was in my division, who came up to me—a little black girl—and said, "Judge Levy, why don't any of them want me?" I had no answer for her.

I think when you talk about looking at this through the eyes of a child, are we looking at it through our eyes, or are we looking at it through the child's eyes? I think the age of the child is very important. Infants who come into foster care are very easy to adopt because people want infants. It is when children have reached the age where they have formed real attachment to their parents that it is not so easy.

In conflict with the statistics that I heard earlier, I do not believe that physical abuse is the number one cause of abuse in this country; I believe it is neglect. When we break these bonds of attachment that children have, when we say, especially in neglect cases, that family preservation is not worth it, after this body spent $2 billion 2 years ago to support those efforts, puts a child in a situation where they are in out-of-home placement—and they suffer grief just the way any one of us would suffer grief at the death of a significant other—they are moved from placement to placement, they are separated from siblings and there is no significant visitation. Because of lack of resources, when children are removed under those situations, they become delinquent, and we have the statistics now to prove it. And among males, they become violent delinquents; they have school problems, they drop out, they become depressed, they are more likely to move to substance abuse and instability concerning employment. So, I think the issue is to look at the age of the child and the kind of abuse we are dealing with.

I said that the judges must accept a lot of the responsibility, and I think that that is correct, because I think it usually takes about 10 years for a Federal law to filter down to people in the pits. I am one of the people in the pits, and I have seen all the horror stories. A lot of judges do not understand what "reasonable efforts" means, and it does need to be spelled out, but it needs to be spelled

out according to the risk that is involved. The risk that is involved is always the safety of the child, that is always paramount, and it must be paramount, irrespective of the number of services. Even though the statute says that—does that mean my time is up?

Chairman SHAW. Well, the red light does indicate that the allotted time is up, but that buzzer has nothing to do with the light, and I have been very lenient with the red light, so you may continue. The buzzer means that we are going to have to leave in a couple of minutes to go over and vote, and then we will return.

Judge LEVY. Oh. I will try to be brief. I do not want to cut off any of the other individuals.

I think that if you are going to formulate a test, you must bear in mind the risk involved and the type of abuse that is involved. Families can be preserved in neglect cases with proper services. Children do not have to be traumatized, and foster care traumatizes children; I think everybody here is in agreement with that.

So, when you think about a test, if you want to formulate a test for reasonable efforts, think about that balance. "Reasonable efforts" means the safety of the child as weighed against the services that are appropriate, available, and can be placed in the home. And even if those services can be placed in the home, if that danger still is not removed, then that child has got to be removed from that home. That is the thing that judges do not understand. In many cases, they do not understand that in an emergency situation, irrespective of services, a child can be removed.

I want to get to two other specific issues. We have talked a lot today about the safety of children. The thing that has driven 96–272—and in my State, the number of placements into foster care has dropped, and the number of adoptions has gone up—is the fact that Congress has made the States comply. And from what I have heard today, Congress intends to keep that hold over that situation.

Gentlemen, if you block grant funding for IV–E and IV–B funds, you will gut Public Law 96–272; you will allow the States to go back to where they were before this statute, and all the things that you talked about accomplishing today, you will never see, because you will have no way to control what States decide to do with those funds.

When it comes to adoption, I agree. As a member of the National Council of Juvenile and Family Court Judges, I have taught judges about dependency. I have taught my own judges about dependency. And, I think that thinking has got to change. I think that 18 months is too long. I think it should be a 1-year limit. I think that agencies do not aggressively recruit adoptive parents. And contrary to popular belief, children do not come into the system most often as babies; they come in at about the age of 5. Trying to find adoptive parents for 5-year-olds is not as easy, but State agencies must be aggressive in doing that. They must be creative.

When you have situations of severe abuse, you can dual-track a case. Even neglect cases can be dual-tracked, so that it can be reunification or termination of parental rights. If, after 1 year, it does not work out, you are set to TPR the case.

For some reason, the idea exists that some children are not adoptable. That idea has got to be removed from our heads. Every child is adoptable if we try hard enough. We have to make States eliminate the category of "long-term foster care." Do you know what that means? It means they have given up; they have given up trying to find permanent loving homes for children. The same thing goes for the category of "independent living." We have to make them stop the fear of having failed placements in adoptions. Everybody fails; if you fail, it means you do not try.

Workers do not speak to kids. Kids do not understand adoption. They come to court, and they tell me, "This child does not want to be adopted." Do you know what that means? It means that nobody has taken the time to tell the child that adoption means he or she is going to have a safe place to live, with people who care about them. It is amazing to me that counselors do not talk to children, and enough judges do not talk to children. Children and foster parents should be mandatory at judicial reviews. They are the ones who have the most influence on the decisions that we make.

There was a lot of discussion earlier about specific situations, about expedited TPRs. Mr. Chairman, our State, the State of Florida has four provisions for expedited termination of parental rights: first, abandonment, where the State can file in 6 weeks; second, where there is a pattern of parental conduct that shows that no services could remedy the danger to the child, immediate filing of TPR; third, egregious abuse, abuse that is so terrible that there is no point in wasting everyone's time and everyone's efforts; and finally, that a judge at any review can order the department to file a TPR petition. Those are the kinds of things that need to be put into the statute.

We need to concentrate on older children. We have got to utilize the Metzenbaum Multi-Ethnic Placement Act of 1994, which prohibits State agencies from receiving Federal assistance for denying foster care, or adoptive consideration, on the basis of race, color, national origin, of either the child or the adult. Many States are lax in doing this; some do not do it at all. Race is always a consideration, but the major consideration is the best interest of the child. Every child deserves a permanent, loving home.

This act, if we want it to, could be the most significant adoptive legislation if there were proper compliance and implementation. But there is no hammer to bring it down. You have the power to do that.

Subsidized adoption—if I leave here with one point today, the only point I want to make, is that foster parents usually are the ones who adopt. There is a disproportionate number of African-American children in foster care. They are not the cute, little red-headed girls running around like that. These people want to adopt, but they cannot afford it. Tax credits do not do them any good. And when State agencies say that long-term foster care is better, what it means is that these kids grow up, and after they turn 18, they cannot come back and say to their kids, "Come and meet my mom and dad. Let's go see them for Christmas. Come and meet your grandparents." To me, that is tragic.

We currently have half a million adoptable children——

Chairman SHAW. Judge, I am going to have to interrupt you, or I am going to miss that vote that is across the street.

We will recess for just a few minutes. Congressman Camp has gone over to vote early, so he will gavel the meeting back to order.

We will recess for approximately 5 minutes, and perhaps when Mr. Camp comes back——

Judge Levy. All right. I have only about 30 seconds more, anyway.

Chairman SHAW. OK. We will stand in recess for approximately 5 minutes.

[Recess.]

Mr. CAMP [presiding]. The Subcommittee will come to order.

Thank you. I understand that when we recessed, Judge Levy, you were testifying. We do have a time limit in this Subcommittee. If you could wrap up your remarks in about 30 seconds so that we could hear from the other witnesses, I would appreciate it.

Judge LEVY. I will.

Mr. CAMP. Thank you.

Judge LEVY. All right. We have the tools at this time to attack the growing problem of out of care placement and adoption. We can have speedy permanency for children, the question remains, will we use them or abrogate this responsibility that we accepted as a nation 15 years ago?

If we do, we will have abandoned our commitment to children and pay the consequences in the quality of their lives and the documented outcomes of how their actions will affect us, as a nation.

Thank you.

Mr. CAMP. Thank you.

David Liederman, Executive Director, Child Welfare League of America.

STATEMENT OF DAVID S. LIEDERMAN, EXECUTIVE DIRECTOR, CHILD WELFARE LEAGUE OF AMERICA, INC.

Mr. LIEDERMAN. Thank you, Mr. Chairman.

First, let me thank you and others for maintaining the full entitlement for IV–E for adoption assistance and foster care. We appreciate that.

Mr. CAMP. You and I have talked about that.

Mr. LIEDERMAN. Yes, you and I have and we appreciate that you moved in that direction and we are grateful.

Mr. CAMP. Thank you.

Mr. LIEDERMAN. Let me start out by saying that it's our opinion that reasonable efforts or any of provisions of Public Law 96–272 do not impede good practice. Indeed, we believe that if the provisions of Public Law 96–272 were carried out, as intended, it would speed up the resolution of many cases in the system.

The whole notion of regular case plans, periodic reviews, the implementation of good management information systems, all of the provisions that were intended in Public Law 96-272 to move cases toward permanence is what it's all about.

And the question is, are we going to implement the law the way it was intended or are we going to keep falling short?

I think it is a little gratuitous to try to blame Public Law 96–272 or the reasonable efforts provision for our inability to place children in adoptive families. It is really off the point.

Mr. Chairman, I think we need to talk about the lack of political support at the State and county level to properly deal with things like extremely high caseloads, poorly trained workers, low pay for child protection workers and other caseworkers. You know, as you and I have discussed, the Child Welfare League of America has been doing national standards for 60 years and we have standards for child protection and case loads for child protection workers.

There isn't a jurisdiction in the United States that meets the League standards, and the League standards are not onerous. The point is that you cannot hold a social worker accountable when a social worker has 60, 70, or 80 cases. And you know, from your own experience, that when you have that many cases, all you're doing is pushing paper, you cannot possibly do good case work.

Reasonable efforts does not mean unreasonable efforts, it means reasonable efforts. And as Judge Levy said, and I want to second what he said, it means you make reasonable efforts to keep kids with their families if you can do it safely. And the safety consideration is a major consideration, because there isn't anyone that I know in the 850 agencies of the Child Welfare League of America that wants to put any child at risk by trying to make unreasonable efforts to keep kids with their own families.

And in my 40 years, almost—I know I do not look that old—in this business, I do not know of a single social worker that has killed a kid in the child welfare system. I do not know of a single judge that has killed a kid in the child welfare system. And I do not know of a single Congressperson that has killed a kid in the child welfare system.

We are all in this together. It is not about trying to lay blame at the feet of people who are trying to help kids and families. Mr. Chairman, I do know about lousy case work. I also know about judges who are overloaded and who are inadequately trained. And I also know about poor and unprepared lawyers. All are factors that contribute to bad decisions or, in many cases, no decisions that are made and negatively affect children and families in the child welfare system.

So, what can we do? I think we can do two things. We can make sure that reasonable efforts work to protect children and to achieve permanence as quickly as possible. It would be nice if the Department of Health and Human Services were mandated to Federal guidance and give assistance to the States.

It's incredible to me that here we are, 16 years later, and we have no Federal guidance to the States on what constitutes reasonable efforts. We have left it up to each State to make their own judgments which, we think, doesn't make a lot of sense.

We can make sure that the Federal Government monitors the State's reasonable efforts and tries to keep track of what States are doing and is of assistance to States by providing technical assistance and positive help to States to implement the reasonable efforts provision.

The second thing we can do, and this would be extremely important is to make adoption work and remove the barriers to adopting

children, particularly children with special needs. There are 20,000 children who have special needs who have been freed for adoption. There are another 69,000, almost 70,000, kids who could be freed for adoption in the near future. And we need to remove the barriers to adoption. We need to make sure that the legal barriers are removed, that courts give priority to children's cases, when setting dockets, hearing cases, issuing decisions, scheduling and hearing appeals.

We need to remove the agency barriers to adoption. I do not understand why we do not identify kids early on in the process that look like they are going to move in the direction of adoption and make sure that we expedite that process and move as quickly as we can.

We need to recruit, as I'm sure that Peter Digre is doing in Los Angeles, we need to recruit a diverse group of foster and adoptive parents on an ongoing basis, so that we have a ready supply of families to care for special-needs kids. We need to ensure that the child welfare staff are properly trained and that they have a manageable caseload.

And, finally, Mr. Chairman, we need to remove the financial barriers to adoption. And, again, I agree with Judge Levy when he talked about the financial barrier. The folks that are most likely to adopt special-needs children are foster parents and working families. And they are generally folks who do not have a lot of money.

They are folks who need financial help and they need to know that there will be ongoing financial help. They need to know that the kids have their health care needs met, they need to know that they have other services available so that the kids get what they need.

I would put in a word for the Senate version of the Adoption Tax Credit and I would hope that the House would support it. As you know, we were concerned with the tax credit passed by the House because it was not targeted. We felt, as again Judge Levy pointed out, that a non-targeted tax credit is not going to do a whole lot to help kids who are in the child welfare system. The Senate Finance Committee, in its wisdom, has adopted a special targeted tax credit for people who adopt special needs kids and it would be permanent in the law and we hope that you would support that when it comes to you.

So, again, let me thank you for the support that you have given us. We appreciate it a lot. I think this hearing is indicative of the fact that this is a very complex subject. And, why we have been saying all along that we didn't believe child protection belonged in the welfare bill because of what you've heard today at this hearing. It's very complicated, it's very involved, it needs to be treated the way you're trying to treat it—intelligently, with people having an opportunity to discuss the problems from various points of view, and we should keep child protection out of the welfare debate. It does not belong in that debate.

Thank you.

[The prepared statement follows:]

STATEMENT OF
DAVID S. LIEDERMAN, EXECUTIVE DIRECTOR
CHILD WELFARE LEAGUE OF AMERICA
JUNE 27, 1996

Mr. Chairman and members of the Subcommittee, I am David Liederman, Executive Director of the Child Welfare League of America (CWLA). Our 900-member agencies across the United States and Canada work to improve conditions for children and families in crisis and at risk. Nearly 400 of our agencies provide adoption services that enable children to secure loving families. I appreciate the invitation to testify at this hearing and commend your interest in strengthening the federal commitment to help more children find homes through adoption.

Adoption is a vital service in the array of efforts needed to protect and care for abused and neglected children. "Reasonable efforts," as embodied in P.L. 96-272, The Adoption Assistance and Child Welfare Act of 1980, do not impede good child welfare practice. "Reasonable efforts" on the part of agencies and the courts can promote and sustain appropriate and timely adoptions of children in need of wonderful families.

"Reasonable efforts": What they are; what they are not

The Adoption Assistance and Child Welfare Act of 1980 requires that "reasonable efforts" be made to prevent the unnecessary removal of children from their families. If children's safety is jeopardized and they have to be separated from their families, efforts must be made to secure permanence for children either by reunifying them safely with their families or finding them another home that is safe, loving and stable.

CWLA continues to support the principles contained in P.L. 96-272. The law's emphasis on making reasonable efforts to allow abused and neglected children to remain in their own homes with their own families, if it can be done safely, is central to providing real assistance to troubled families and their children. "Reasonable efforts" are essential to good practice and a tool for achieving success for children and for improving the child welfare system.

"Reasonable efforts" became part of P.L. 96-272 because at that time, foster care was virtually the only option available and there was recognition that alternatives were needed. Placing children in an overwhelmed, under-serviced foster care system was not then and is not now conducive to positive outcomes for children. In fact, there were many instances then, as now, of children being removed unnecessarily from families. It is important to recognize that children almost always are traumatized by removal from their own family.

P.L. 96-272 contains procedures and fiscal incentives, albeit inadequate, to meet the goals of protection, permanence for children and family support:

- Provision of preplacement and postplacement services to keep children safely in their own homes or reunite them with their families as soon as it can be done safely.

- Requirements of case plans, periodic reviews, management information systems, and other procedures to ensure that children are removed from their homes only when necessary and are placed with permanent families in a timely fashion.

- Increased support for adoption, including the establishment of adoption assistance programs, specifically federally funded subsides for adoption of children with special needs.

"Reasonable efforts" affirmed the importance of family for children. In many jurisdictions across the country, progress has been made in introducing family-focused, child centered services in response to abuse and neglect; thousands of children have been able to remain safely at home or safely returned to their homes after being placed in out-of-home care.

The reasonable efforts principle has had a positive impact overall and has contributed to a number of improvements in the child welfare system (Reasonable Efforts Advisory Panel, 1995):

- a reduction in the amount of time children spend in out-of-home care

- an overall decrease in the number of placements each child experiences
- more goal-oriented planning for children and families
- expansion of needed services
- better family preservation practices, and
- greater emphasis on decision-making that takes into consideration the unique circumstances of every child and family.

Despite improvements and progress, the nation's collective response to abused, neglected and abandoned children is failing to provide both protection and appropriate living arrangements for many children. There are many reasons for this, not the least of which is the tripling in the number of children reported abused and neglected since 1980 and the failure of state, federal and local budgets to keep pace with this rise.

Many are removed from their families prematurely without reasonable efforts having been made. Some are not removed quickly enough. Many unnecessarily remain in foster care because of inadequate reunification efforts. Other children are reunified but without adequate follow-up services to their families, resulting in re-abuse and removal once more. Some children and youth are placed in facilities appropriate to their needs, others are placed in programs that are too restrictive or not restrictive enough. For some children, known to be living in dangerous or threatening conditions, little or nothing is being done. High staff turnover rates, low pay, inadequate training, inadequate supervision, etc., lead to poor casework practice in many cases, despite good intentions.

This is not to say that one form of intervention is necessarily better than another; placement should be based solely on the child's needs with some requiring more intensive intervention than others. All of these services are valuable. The issue is which ones are appropriate to the child's needs and family circumstances. In the first instance, the state must examine in good faith whether a child can, with proper support, safely remain at home.

> *In San Diego, a mother with a substance abuse problem had her three children removed and placed in three different homes, each far from the other. Mom was told she could get her kids back if she got drug treatment and ended her drug use, got training and a job, and visited the children on a regularly scheduled basis. Mom ended drug use, got a full-time job, but couldn't visit her children because one foster home was at least three hours from the other and she had to keep her job. This was not a prescription for possible success, but a catch-22, a setup for failure.*

A great deal of confusion and lack of clarity have occurred because the U.S. Department of Health and Human Services has never issued formal regulations and guidance. Without that guidance, states have had a lot of room to interpret the provision and to flounder.

The "reasonable efforts" clause does not, however, mandate unreasonable efforts. Nor does it support family preservation or family reunification at all costs. All decisions need to be guided by sound practice and good judgment of all involved on a case by case basis.

As Jean Price, the chairman of CWLA's National Advisory Committee on Adoption, described in a hearing before this subcommittee last year, there are certain factors that are fundamental to all effective social services for children:

- The first responsibility is to attend to a child's safety and protection. For some children and families, family preservation services and family reunification services are not indicated and should not, in fact, be pursued. Other families, perhaps as many as 80 percent of those who come to the attention of the child protection system, can be helped to gain the skills they need to live together safely or to come to another resolution that benefits the child, including placement with another family or in another setting.

- Whenever it can be done safely, it is important to strengthen family ties, keeping children connected to their family of origin. It is vital for all people, but especially for children, to be part of a family. Roots are important to children. "Where do I come from?" "Where do I belong?" are questions that all children and youth ask. As a matter of fact, many troubled adults are still struggling with this question.

- Children need permanent living arrangements. They do not do well when they are moved from place to place with no sense of the past or the future. Children need legal protection as part of their own families, or through adoption.

Reasonable efforts remain key to permanency planning. There is consensus that "these efforts, however, are to be pursued *only* when consistent with a child's health and safety. The biological family is to be the placement of choice, ***provided the family responds to help and will be able to provide proper care within a reasonable time after state intervention." (Reasonable Efforts Advisory Panel, 1995)***

The Family Work Involved in Reasonable Efforts Can Improve Outcomes

Research in child welfare, children's mental health, and child development all point to more positive outcomes for children when parents are involved (Dartington Social Research Group, 1995; Lunghofer, 1995; Pine, Warsh and Malluccio, 1993; Wittaker, 1981).

- When a child can remain safely at home, supportive and crisis services can help to stabilize the family and improve skills and resources so that the child can be spared the trauma of having to leave home and community.

  Glenda and John, young, first-time parents, were afraid that they would permanently lose custody of their infant son after he was hurt falling from his father's arms in the shower. When John was charged with child abuse, the court ordered the couple to take part in a home visiting program, participate in counseling and parenting classes. The home visitor scheduled twice-weekly visits so John could learn to bathe, feed, clothe, and play with his son safely. The couple gained confidence and skill in parenting, and were helped to form a positive and supportive relationship with Glenda's parents, with whom they were living and who had temporary custody of young Johnny. The couple have since regained custody of their young son and they stay in touch with the home visitor to report the latest milestones in Johnny's development.

- In-home social services, by their very nature, are "up-close and personal." By engaging the family and spending time in the home, there is increased opportunity for observing abuse and neglect than with standard child protective services. Thus, when families, who on the surface appear to be "low risk," present more serious problems, there are professionals already involved who can respond in an appropriate and timely manner and ensure child safety.

  Family support and family preservation workers frequently report that, by spending "real time" with families in their homes and communities, they are able to learn about and observe more serious problems that may be present, including sexual abuse and domestic violence. Because they know more about the family, and have formed a relationship with at least one caretaking adult, they are able to mobilize the family to develop a protective plan for the child which may include moving the nonoffending adult and children to a safe place, removing the adult responsible for the abuse, or removing the child temporarily or permanently.

- When a child cannot remain safely at home, parental and family involvement are key to either a successful reunification or another permanent resolution for the child. For example, according to one of our providers of services to abused children and their families,

David, an 11-year old boy who had been in residential treatment for several years because of his destructive behavior suddenly began to make dramatic progress when it was learned that his birth father—with whom he had had little contact—was eager to build a father-son relationship. Over a period of months, with much support and assistance from the worker, David and his father learned to know one another and live together. David's dad received coaching and guidance on parenting. David learned, through many home visits, how to get along in a family and with peers in the community. Now David is at home with his dad.

- When reunification is not possible, working with the family often can lead to an optimal resolution for the child, through adoption, guardianship, or long-term care with relatives. By working with the parents and other family members, the agency can help them to find a caring and permanent solution for the child.

Debbie, a 7-year-old, came to live with the Hart foster family because she had been abused and neglected, and as a result of her serious acting out behaviors in school. Debbie's mother, Jeanine, was concerned about her daughter but unable to break away from a live-in boyfriend who was physically abusive with Debbie. Through supportive counseling and a positive and supportive relationship with Debbie's foster parents, Jeanine was able to come to terms with the situation. She agreed to voluntarily release Debbie for adoption, and worked with the counselor to arrive at a visitation and contact agreement with the Harts, who subsequently adopted Debbie. Now Debbie is at home with her adoptive family, June and Ray Hart, and she is able to have contact with her birth mother. Her acting out behavior has disappeared and she is performing at grade level for the first time.

When, in the process of working intensively with the family, it is determined that staying together or reunifying the family is not in the child's best interest, the agency is far more prepared to demonstrate to the court that the parents are unable or unwilling to care for their children and to develop and implement a permanent plan for the child.

When it is determined that a child cannot be reared by the birth parents, steps toward adoption should proceed without delay. In still too many instances, that, unfortunately, is easier said than done.

Children in Need of Homes

In most states in the U.S., adoptions are done by licensed voluntary or public agencies, or by independent practitioners. Independent practitioners may include attorneys, physicians, social workers, and others with few qualifications.

- An estimated 20,000 abused, neglected, abandoned, or orphaned children with special needs are currently legally free and awaiting permanent and loving adoptive homes, with another 69,000 children likely to need adoption in the near future. As parents with AIDS die, there will be even more children needing permanent families through adoption.

States are the legal parents of these children, many of whom have been abused, neglected or abandoned by their families. These children need permanent families and it is our duty to help find them appropriate families that can best care for them.
Seventy-two percent of the children awaiting adoptive placement in 1990 had one or more special needs: medical, developmental, behavioral or psychological.

Addressing Barriers to Adoption

While there are thousands of couples waiting to adopt infants, the opposite is true of the thousands of children in foster care who are waiting for adoptive families. Far fewer families than needed have been recruited for the large numbers of children with special needs.

To secure a sufficient number of adoptive parents available for children with special needs who are in the public foster care system, there must be more public recognition of the need that these children have for permanent families and that parents can, with professional help and the necessary resources, effectively parent them.

Legal system barriers to adoption

Currently children wait an average of two years and five months for termination of parental rights to be completed by the courts. This is not responsive to the needs of children. It is essential that courts give priority to children's cases when setting dockets, hearing cases, issuing decisions, scheduling and hearing appeals. The federal government can help by urging state courts to enact time standards that will ensure prompt handling of all children's cases.

Agency barriers to adoption

If child welfare agencies are to eliminate agency barriers to adoption—so that children needing adoption can be adopted without delay—priority needs to be given to:

- identifying those children very likely to need adoption at the time they enter care and moving promptly toward adoption for these children;
- recruiting a diverse group of foster and adoptive families on an on-going basis to be available for children with special needs;
- ensuring that staff are hired who can respond to children's needs, including a range of cultural and language needs;
- providing that all child welfare staff are trained in the full range of child welfare programs from family preservation to adoption; and
- establishing a service mix and staff caseloads that can meet the needs.

These barriers do not exist in the child welfare agency alone, nor are reasonable efforts the responsibility of only the child welfare agency. Other agencies, including health and education agencies, as well as the courts are key partners in planning for and achieving successful outcomes for children.

Continued national leadership and adequate financial resources are essential if we are to ensure that these barriers are removed and that children who cannot return to their families can be moved to adoption in a timely way.

Financial barriers to adoption

A major barrier to adoption of children with special needs is financial. These children need multiple services in order to adjust to family living and become part of the adoptive family.

In many instances, the most suitable families for these children—ones who are committed to meeting their needs—are families of modest or low income who cannot afford to pay for the daily needs and often extensive medical services for these children without assured help. The title IV-E Adoption Assistance subsidy provides some of that assurance. It is available wherever the child and family reside.

The pending adoption tax credit proposal with the targeted assistance to families adopting children with special needs as provided in the bill as passed by the Senate Finance Committee, offers important additional help to find homes for children who are waiting.

Adoption can be encouraged by confronting these legal, financial, and procedural barriers, and by implementing reasonable efforts well.

Eliminating "reasonable efforts," as some have suggested, is not a solution. Getting rid of those two words will not solve the problems that really impede adoption and other successful outcomes for abused and neglected children or those at risk of abuse or neglect.

Making Reasonable Efforts Work

The following elements must be in place in order for "reasonable efforts" to enhance opportunities for successful child outcomes and to serve as a tool for improved practice and decision making:

Written federal guidance to clarify for states what is meant by "reasonable efforts," including:

- a core list of services and supports that a state must develop as evidence of its capacity to make reasonable efforts;

- when reasonable efforts are appropriate and those instances when they are not required--i.e., that they are not required when they compromise the safety of the child and that reunification efforts are not necessary, or "reasonable," when the chances of family reunification are remote; and

- standards of performance for state child welfare systems that will provide a meaningful and predictable role for DHHS in its oversight of state agencies receiving federal funds for child welfare services. States vary widely in their performance and capacities. National standards should be adopted to improve practice and outcomes. CWLA for many years has been the principal national agency responsible for developing child welfare standards. Our 11 volumes of standards are recognized by child welfare professionals throughout the world as constituting "best practice" standards. Unfortunately, there remains a wide gap between the excellence contained in these standards and what actually occurs in practice.

Federal monitoring of state reasonable efforts. Federally conducted program audits are an important means of ensuring that states are working conscientiously to both keep children safe, to keep them connected to their families, and to achieve permanence for children. Legal actions have found that more than 20 states have failed in many ways to properly care for children, including making reasonable efforts when appropriate.

Intensive preventive services. Communities providing intensive preventive services have been especially successful with reasonable efforts. Some have had particular success with speedy adoptions and other permanent placements for children unable to return home. Federal encouragement of family preservation and support efforts is important to reinforce these state and community efforts (Reasonable Efforts Advisory Panel). To carry out these efforts, it is imperative to bring to bear adequate resources for staffing, training, and agency coordination to make sure the job can get done.

Interagency collaboration and support. Successful reasonable efforts, like effective child welfare services, cannot be implemented by the public agency alone. All service providers, the courts, and the legal community must work together to ensure that children and their families are receiving appropriate services and to enable timely and sound decision making in their behalf. Court assessment and improvement is not only vital, but unlikely to occur in any widespread manner, without federal funding and encouragement. (Reasonable Efforts Advisory Panel, 1995)

Informed and consistent court involvement. Courts should continue to make determinations about agency reasonable efforts to preserve and reunify families. (Reasonable Efforts Advisory Panel,1995). Court effectiveness depends upon proper judicial training, reasonable court caseloads, and a genuine interest and commitment to child and family work. It also is imperative that judges be assigned to regular child welfare caseloads as opposed to having a revolving assignments which prevent following a case over time.

Training, protocols, and supervision of agency workers to

- conduct accurate assessments regarding child safety, family capacity and motivation, and family strengths and resources;
- intervene effectively when safety is a concern;
- develop an appropriate service plan that meets the needs of the child and family;
- engage the family in making the needed changes;
- obtain or develop needed resources;
- document progress and problems;
- work effectively with legal counsel, the courts, and with other service agencies to move the case to an optimal resolution for the child.

Reduced caseloads so that workers have the opportunity to make reasonable efforts and do best practice in their work with children and families.

These are the basics of good casework practice and without them there will never be sufficient protection for children at risk of harm. These elements are essential for increased safety and success for children. With more than three million children reported abused or neglected, "reasonable efforts" are an essential tool if children are to remain safely with their families. The alternative is to bring many more thousands of children unnecessarily into care with all the associated trauma and costs that this option generates.

In the last decade we have learned in specific detail what good and effective "reasonable efforts" look like. There is a great need for HHS to catalog those experiences and transmit them to all jurisdictions so they can be implemented properly. It is equally important that benchmarks of performance be set in each state so that all parties have clear and appropriate expectations and responsibilities and make the necessary investments to keep children safe. That will enhance the appropriate and timely adoption of children in need of homes as well as help children who can remain or be reunified safely with their families.

With current and increasing demands, we need a system with all the options and we need them to work well. I look forward to working with the Subcommittee to make sure that happens.

Mr. CAMP. Thank you very much, I appreciate your comments. Ms. D'Ambra, child advocate, State of Rhode Island.

STATEMENT OF LAUREEN D'AMBRA, CHILD ADVOCATE, STATE OF RHODE ISLAND, PROVIDENCE, RHODE ISLAND

Ms. D'AMBRA. Mr. Chairman, thank you for the opportunity to address this distinguished Subcommittee and thank you for conducting this hearing on this very important issue. I am Laureen D'Ambra and I am a child advocate for Rhode Island. I have been in this position for 7 years now, and before that, I was legal counsel for DCYF, our Rhode Island Child Welfare agency for almost 9 years.

In my capacity, in both capacities I have worked closely with child advocates, legislators, judges and policymakers in our State to strengthen termination of parental rights statutes, and to codify case law regarding reasonable efforts.

We heard, this afternoon, some horrific stories. I am acutely aware of many of those same stories that I hear during the child fatality investigations that we review in our office, and I think Sister Murphy and others vividly described those horrific situations.

In Rhode Island we have had a great deal of public outrage regarding how children are treated in our child welfare system. That public outrage has been turned into legislative initiatives and policy action to protect and safeguard children in our State.

Rhode Island has long recognized the need for permanency planning for children. In fact, in 1986, the Rhode Island Supreme Court upheld statutory provisions of parental unfitness, due to conduct toward any child of a cruel and abusive nature. The court held in this case that reasonable efforts were not necessary.

In accordance with Public Law 96–272, in a case involving a mother who had been convicted of delinquency murder and first degree child abuse of her 9-month old baby, parental rights of all five of her children were terminated by the family court without any reasonable efforts having to be made, given the fact that this constituted cruel and abusive treatment under the statute.

In 1994, we had legislative initiatives that were the result of a subcommittee initiated by the chief judge of the family court that I served on. The family court, now, because of those legislative enactments, the family court can terminate parental rights when the parent's rights have been terminated previously and the underlying conditions still exists. If the court finds that it is improbable that additional services would result in reunification, reasonable efforts to reunite are not required.

The case that was a catalyst for that law involved a mother who was convicted of murdering her young son. She then gave birth to three more children after her incarceration and subsequently abused them.

This statute recognizes the absurdity of reunification under these circumstances and the need to protect children from chronically abusive parents.

A second provision of our new laws involves substance abuse. The law states that for a period of 12 months if a child is in care

due to parental substance abuse, it shall constitute prima facie evidence of a chronic substance abuse problem at trial.

This legislation was intended to address the escalating number of cases of abuse and neglect due to parental substance abuse. Parental substance abuse in crack cocaine has certainly overwhelmed our entire child welfare system throughout the country. This law has allowed Rhode Island to quickly move to terminate parental rights in cases where there is chronic substance abuse. This also would involve parents who are unwilling or unable to be rehabilitated.

Another provision of our new laws involves the best interest of the child. In determining the best interest of the child, the court must now give consideration to the child's placement in foster care, integration into the foster home and the length the child has been placed, as well as the preference of the child if the child is able to state a preference.

Passage of Public Law 96–272 was never intended to require reasonable efforts at all costs. State initiatives, such as those in Rhode Island, have better defined the intent of this Federal mandate in an effort to balance the rights of families but not at the expense of vulnerable children.

Another provision that we incorporated into our new laws included specific timelines, and I know there was extensive discussion today about establishing timelines.

What we have done in Rhode Island, given the alarming statistics regarding a lack of permanency for numerous children in State care, the Rhode Island General Assembly established specific timeframes to expedite termination proceedings in its recent amendment to Rhode Island General Laws, 40–11–12.1, to institute proceedings for adoption when a child is less than 10 years old and the child has been in the care of the department for a period of 12 consecutive months. I believe the Rhode Island General Assembly recognized the fact that 1 year in the life of a child can certainly be an eternity.

Last, as part of the new initiatives, we enacted a guardianship statute. The impact of a delay in permanency planning whether due to age, race, sibling groups, medical, emotional or behavior problems is certainly devastating. Each child who feels alone and abandoned wants nothing more than what most of us take for granted—the continuity and security of belonging to a family.

Recognizing this pattern of children being stuck in the child welfare system, the General Assembly enacted legislative changes in order to more easily facilitate guardianships through the family court. Provisions in this statute acknowledge the fact that permanency planning for older and/or difficult to place children may be achieved through guardianship rather than adoption.

In conclusion, our office last month released a report after we reviewed four child fatalities involving children who were in the care of the State. We are an ombudsman office, and as part of our statutory duty we do conduct child fatality investigations of all children who die in State care.

The Children in Crisis Task Force, as it is called in that particular report, is especially concerned about what happens to children who are removed from their families only to remain in child wel-

fare placement for an extended period of time. Efforts to provide secure homes to children in out-of-home care, who too often experience placement disruptions and delays in permanency planning, must continue.

Thank you, again, for the opportunity to testify today before the Subcommittee concerning State initiatives and the initiatives that we have taken in Rhode Island to better define reasonable efforts in accordance with the Adoption Assistance and Child Welfare Act of 1980.

[The prepared statement follows:]

TESTIMONY OF LAUREEN D'AMBRA, ESQUIRE
CHILD ADVOCATE FOR THE STATE OF RHODE ISLAND

SUMMARY OF TESTIMONY

The State of Rhode Island, Office of the Child Advocate, investigates child fatalities of those children who die while involved with the child welfare system. Through the work of child fatality review panels, and in collaboration with legislators, judges, policy makers and child advocates from a range of professional disciplines, Rhode Island has strengthened termination of parental rights statutes and codified case law. The purpose of these laws is to move children toward permanency planning as was intended by the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272).

R.I.G.L. §15-7-7 allows the Family Court to terminate parental rights when the parents' rights have been terminated previously and the underlying conditions still exist. "Reasonable effort" to reunify are not required if the Court finds that additional services would not result in reunification. A second provision states that when a parent has been unable to provide care for a child for a period of twelve months due to substance abuse, it shall constitute prima facie evidence of a chronic substance abuse problem. The third provision mandates that the Court consider the child's placement in foster care, integration into the foster home, length of time that the child has been placed, and the child's preference, if the child is able to express a preference in determining best interest of the child.

The Rhode Island General Assembly has also passed amendments to R.I.G.L. §40-11-12, that gives the Family Court the authority to appoint a guardian of the person of a child who has been placed with the Department of Children, Youth and Families, and allows guardianship subsidies. This statute provides "permanency planning" for older and/or difficult to place children through guardianship rather than adoption.

Last month, the "Report of the Children in Crisis Task Force" was issued by the Office of the Child Advocate. The Task Force reviewed the death of four children involved with the child welfare system. The Task Force concluded that public awareness of the needs of children, and the action of policy makers is essential if we are to appropriately protect children and provide stability through adoption when reunification is not possible.

Rhode Island's legislative enactments facilitate termination of parental rights and ensure timely adoptions. Passage of P.L. 96-272 was never intended to require reasonable efforts at all costs. State initiatives such as those in Rhode Island have better defined the intent of this federal mandate in an effort to balance the rights of families, but not at the expense of vulnerable children.

Dear Mr. Chairman and Distinguished Members of the Committee:

Thank you for the opportunity to speak before the Subcommittee on Human Resources of the Committee on Ways and Means regarding the provisions of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). I am Laureen D'Ambra, testifying as the Child Advocate for the State of Rhode Island. I have served in this capacity for the past seven years. Prior to that, I served as legal counsel for the Department of Children, Youth and Families, the state child welfare agency in Rhode Island, for nine years. I have worked closely with child advocates, legislators, judges, and policy makers in our state to strengthen termination of parental rights statutes and to codify case law regarding reasonable efforts. The impetus for these legislative initiatives were crucial questions that emerged in the course of our statutorily mandated child fatality investigations. During these investigations, experts from within the community examined the cases of children who died while in the state's care.

Panel members addressed circumstances under which a child should be removed from a family that poses a risk of abuse or neglect. Additional issues of major significance include the following:

1. How can we better define "reasonable efforts" in accordance with federal and state law, in the best interest of children?

2. How can we identify and expedite cases that require termination of parental rights?

3. How do we facilitate timely adoptions for those children who are permanently removed from their families?

The Office of the Child Advocate is a state funded and operated ombudsman office for children in the care of the state. In accordance with our mandate, we protect the legal, civil and special rights of our most vulnerable population: abused and neglected children; those with serious emotional and behavioral problems; and those in the juvenile justice system. Since its inception in 1980, the State of Rhode Island, Office of the Child Advocate has reviewed the cases of all children who have died while involved with the Department of Children, Youth and Families. The Office has studied these tragic cases, and determined systemic changes that can be made to improve our child welfare system and reduce the numbers of children who die from abuse or neglect.

In the course of our work, we have looked intensively into the cases of children who are able to remain at home with services to prevent abuse and neglect and correct the problems that create risk. We have also considered the cases of children who could not remain safely at home, and required out-of-home placement and reunification planning. We have studied those situations where parental rights were terminated to allow the adoption of children.

We have also reviewed cases such as those of Eric D., a child returned to his biological father who killed him a month later. Eric had little contact with his father due to delays in establishing paternity. Three year old Eric had resided with his foster mother since birth. He was returned to his father based upon a need to comply with P.L. 96-272, based upon father's request to participate in a plan for reunification. Eric's case is a reminder to all of us of the vulnerability of young children, and the horrible reality that parents or caretakers can deliberately and violently kill their children. Cases like this involving similar tragedies led to the formation of a task force convened by the Chief Judge of the Family Court to consider legislative initiatives that would expedite termination of parental rights.

Rhode Island has long recognized the need for permanency for children. In 1986, the Rhode Island Supreme Court upheld statutory provisions of parental unfitness due to "conduct toward any child of a cruel and abusive nature." The Court held that reasonable efforts were not necessary in accordance with P.L. 96-272, in a case involving a mother who had been convicted of delinquency murder and first degree child abuse of her nine month old baby. Parental rights of all five of her children were terminated by the Family Court.

The newly formed Dependency/Neglect/Abuse Subcommittee continued the initiative by recommending the introduction of three bills in the 1994 session of the Rhode Island General Assembly that strengthened the existing laws with regard to termination of parental rights.

I. DEFINING REASONABLE EFFORTS IN ACCORDANCE WITH P.L. 96-272:

R.I.G.L. §15-7-7, "Termination of Parental Rights", allows the Family Court to terminate parental rights when the parents rights have been terminated previously and the underlying conditions still exist.

This enactment is an acknowledgement that some parents whose parental rights to another child had been terminated continue to lack the ability or willingness to respond to services that would rehabilitate them. If the Court finds that it is improbable that additional services would result in reunification, reasonable efforts to reunify are not required.

In Rhode Island there had been public focus on a case involving a mother who was convicted of murdering her young son. Upon her release from prison, she gave birth to three more children and subsequently abused them. This case triggered the passage of this provision of the legislation. This statute recognizes the absurdity of reunification under these circumstances, and the need to protect children from chronically abusive parents.

A second provision of this new law states that when a parent has been unable to provide care for a child for a period of twelve months due to substance abuse, it shall constitute prima facie evidence of a chronic substance abuse problem at trial.

All are aware of the impact that parental substance abuse has had on the child welfare system. Brief, time-limited interventions have not been successful in many cases. Recovery is not able to be addressed in a permanent way. Typically, children have moved in and out of care, or cases are kept open for years, as the patterns of relapse stymie the efforts of a system designed to intervene and resolve issues. This legislation was intended to address the escalating number of cases of abuse and neglect due to parental substance abuse. This law has allowed Rhode Island to quickly move to terminate parental rights in cases where there is chronic substance abuse.

The third provision of the law mandates considerations by the Family Court in determining the best interest of the child. The Court shall give consideration to the child's placement in foster care, integration into the foster home, and the length of time the child has been placed, and the preference of the child, if the child has capacity to express a reasonable preference.

When the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) was passed, many of us hoped for a radically reformed child welfare system. In some ways, this promise has been fulfilled. Programs that are comprehensive, sensitive to ethnic and cultural issues, cognizant of the social environment, and individualized to the problems and needs of each family will work in the vast majority of cases. However, passage of P.L. 96-272 was never intended to require reasonable efforts at all costs. State initiatives such as those in Rhode Island have

better defined the intent of this federal mandate in an effort to balance the rights of families, but not at the expense of vulnerable children. The law does not require preservation of families if children are in dangerous environments. The best interest of the child must outweigh all other considerations.

II. IDENTIFYING AND EXPEDITING TERMINATION OF PARENTAL RIGHTS CASES:

Despite these state initiatives, however, we are seeing a failure related to "permanency planning." Children remain in the system too long, despite many years of efforts to implement the P.L. 96-272 through case plans, court reviews, and time lines. Some children spend so many years embroiled in the process of reunification that they are frequently older if and when they become free for adoption. There are very few adoptions among children in the older age group, especially among those who are in residential programs rather than foster homes.

A 1995 Rhode Island survey of children legally free for adoption, conducted by the Office of the Child Advocate, indicates that the mean time that a child whose parental rights are terminated has been in state custody is 5.9 years, clearly not what was envisioned in the enactment of P.L. 96-272. These cases demonstrate that the mandate for reunification should be a qualified one: families need not and should not be given unlimited chances to regain custody of their children. Cases should be triaged to identify appropriate treatment plans and realistic time frames for implementation. A trained professional staff knows quickly when reunification efforts are futile.

Given the alarming statistics regarding a lack of permanency for numerous children in state care, the Rhode Island General Assembly supplemented existing law by establishing specific time frames to expedite termination proceedings in its recent amendment to R.I.G.L. §40-11-12.1, "Family Court review." This Act requires the court to order the Department of Children, Youth and Families to institute proceedings for the adoption of a child if the child is less than ten (10) years of age and the child has been in the care of the Department for a period of twelve (12) consecutive months, unless the court determines it is not in the best interest of the child to do so.

III. PROVIDING PERMANENCY THROUGH ADOPTION:

Another delay in permanency planning is evident for children from minority populations. We have had little success in locating an adequate number of adoptive homes or visiting resources for this group. Rhode Island has placed a strong

emphasis on the importance of placing children within their own cultural community. As you are aware, however, from recent Congressional action on this issue, minority families would have to adopt at a much higher rate than the general population to satisfy the need, given the number of children free for adoption. According to the 1990 Federal Census data, the percentage of black persons in Rhode Island is small, (3.9%), yet almost half of the children available for adoption are black (39%).

Given the over-representation of minority children in placement, it is critical that child welfare systems review what they are offering families of color in terms of family preservation and reunification services. Service providers must be culturally competent to assess the family's strengths, as well as its limitations, and to successfully engage the family in a service plan.

The impact of a delay in permanency planning, whether due to age, race, sibling groups, or medical, emotional or behavioral problems, is devastating. Each child who feels alone and abandoned wants nothing more than what most of us take for granted, the continuity and security of belonging to a family.

Recognizing this pattern of children being "stuck" in the child welfare system, the General Assembly enacted legislative changes in order to more easily facilitate guardianships. Amendments to R.I.G.L. §40-11-12 "Awarding Custody" gives the Family Court the authority to appoint a guardian of the person of a child who has been placed in the care, custody and control of the Department of Children, Youth and Families and allows subsidies for guardians of handicapped or hard to place children. Written consent of the parent or parents previously having custody of the child is required.

Provisions in this statute acknowledge the fact that "permanency planning" for older and/or difficult to place children may be achieved through guardianship, rather than adoption. In certain cases, termination of parental rights may not be feasible or in the best interest of the child.

IV. CONCLUSION

In an Office of the Child Advocate report released in May of 1996 reviewing the death of four children, the Children in Crisis Task Force focused on resource issues as a barrier to appropriate planning for children in state care. At a time when child deaths due to abuse and neglect illustrate the vulnerability of children born into troubled families, appropriate resources must be the focus of public policy. Ironically, the professional environment

in which service providers try to do their jobs often has a painfully close parallel with many of the families that they serve. They struggle with limited resources, and may be overwhelmed by tasks that are too great and burdensome for these individuals to accomplish.

However, it is important to note that some of the weakest areas in the child protection system may be addressed and alleviated by policy and procedural changes that often do not require additional funding. A continuing effort to improve decision making and coordinate service provision will strengthen the safety net for children, and maximize use of limited resources available to states. These efforts will help to prevent unnecessary removal of children, and to move decisively to protect those at risk.

The Children in Crisis Task Force is especially concerned about what happens to children who are removed from their families, only to remain in child welfare placement for an extended period of time. Efforts to provide secure homes to children in out-of-home care, who too often experience placement disruptions and delays in permanency planning, must continue.

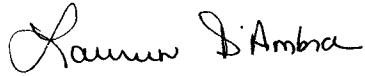
When community-based services are needed, they must be used efficiently so that every dollar committed to children's services will improve their lives. We do not simply need additional resources; we need effective ones. Interventions should be planful, appropriate and timely. They must follow the guidelines for programs that have been proven to be successful. Child welfare experts have clearly demonstrated the type of services that best meet the needs of at risk families. We need to structure our system accordingly. Prevention and reunification services must be provided on a consistent and predictable basis. Written case plans should be approved by the Court at regularly scheduled reviews. When efforts to effect reunification are not successful, we must move competently and expeditiously to terminate parental rights and facilitate adoption.

I endorse the efforts of programs like Families First, a foster care and adoption recruitment campaign recently begun in Rhode Island. Programs like this work to build public awareness and interest in foster care and adoption. Encouragement of corporate and community support to families who adopt children is crucial. Recruitment of foster and adoptive families is necessary if we are to accomplish the goals of placing children with families who will provide love, nurturance and support. Health care packages and tax incentives can further facilitate our ability to identify and recruit families to care for children in need of homes.

As Rhode Island's Child Advocate, I am fortunate to be able to carry the message to policy makers and the public that there exists a crucial need for resources for children at risk. In addition to financial and service-related resources, however, we must open our homes and hearts to this growing number of needy children. I hope that through this testimony their voices will be heard.

Thank you again for the opportunity to testify and to provide written testimony concerning state initiatives to address barriers to children being placed for adoption under the Provision of the Adoption and Child Welfare Act of 1980.

Respectfully submitted,



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DATED: JUNE 27, 1996

Mr. CAMP. Thank you.

Mr. Digre, the director of the Department of Children and Family Services of Los Angeles County.

We do have a vote on. I thought what we would try to do is get through your 5-minute testimony and recess for a few minutes. I would go over and vote and I know that I have some questions and I think some of the other members stayed over there for the second vote.

But, if you would like to begin with your testimony. Thank you for coming here.

STATEMENT OF PETER DIGRE, DIRECTOR, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, COUNTY OF LOS ANGELES, CALIFORNIA

Mr. DIGRE. Thank you, Mr. Chairman.

Thank you for this opportunity and thank you, again, for the Child Protection Entitlement. Reasonable efforts is a worthy concept. In California, family reunification is successful about 78 percent of the time for infants and 80 percent of the time overall.

However, at least 22 percent of the time that infants are reunified they are subjected to new episodes of abuse or neglect. Further, the number of children growing up without legally permanent families continues to grow.

Of the infants going into foster care, fully 30 percent of them slip into the long-term foster care system, as opposed to being adopted or reunified. Long-term foster care, without adoption, is not stable and it's not permanent.

The University of California found that 83 percent of toddlers entering nonrelative foster care had a change of foster homes within 6 years and 62 percent had three or more foster homes. Adoption, on the other hand, creates life-time parents.

In California, only 14 finalized adoptions are set aside annually out of 15,000, literally one out of 1,000.

Finally, thousands of children reach 18 in foster care without parents each year and most instantly become independent. This is nearly impossible.

I am 52 years old and my mother still keeps a bedroom for me. I will never become homeless, but 45 percent of 18-year olds who emancipate, do.

I would like to suggest three ways that the law should be strengthened. The first way is to emphasize that child safety is always the first priority. We often engage in futile, but not reasonable efforts. Make in the law a simple statement that our first priority is always child safety and reinforce it in these ways.

Reinforce it by stating that reasonable efforts must not place a child in danger. Require judges, hearing officers and child abuse workers to state why they conclude that a child will be safe in his or her situation. Require lawyers, who represent children, to advocate only for decisions which are consistent with child safety.

The OBRA 1993 family preservation efforts merit special attention. They have unleashed commendable creativity. However, at the same time, no attention has been paid to basic standards that would improve child safety.

The State plans for family preservation must include specific standards, including clarification that the first priority is always safety, risk assessment to exclude dangerous families, a high level of child visits to supervise safety, and comprehensive services to enable families to protect their own children.

In Los Angeles, we have developed 28 community family preservation networks but we exclude families with histories of violence or sexual assault. And these programs must visit the children up to 16 times a month to make sure they are safe and they must provide 23 key supports that families need.

Our program works about 85 percent of the time. We have seen 30 percent fewer children going into foster care and child deaths have declined in Los Angeles for four consecutive years.

Finally, in terms of child safety, I would like to suggest that the State IV–E plan requirements should include specific child safety standards for the whole child welfare system, including child visitation, pediatric examinations for abused children, timely emergency response, background screening of alleged abusers, risk assessment and training for caretakers and child abuse workers.

The second way I think the law should be changed is to emphasize much more strongly legal permanency through adoption. As I said, foster care is tragically unstable, while adoptions are completely stable. Congress should act to make sure that more children are adopted.

First, reject unreasonable efforts. There are parents for whom reasonable efforts are unreasonable. These include parents who maim children, parents who have lost other children to permanent placement, parents who sexually assault children, and other parents.

Second, as I enumerate in my written speech, require reasonable efforts for adoption. The concept of reasonable efforts applies only to preserving and reunifying families. It should also apply to getting children adopted.

The third way the law must be improved is to improve the life opportunities for kids who grow up in foster care. Declare national goals for these children, including that they will leave with a place to live, opportunity to continue their education, employment, and clothing. And require that the States explain, in their IV–E plans, how they will achieve this.

Require, in those plans, that the State specify how they will pull together local, State, Federal and private sector employment, housing and scholarship opportunities for these kids. In Los Angeles, we are developing housing programs with foundations and HUD, we are creating thousands of jobs for foster youth through the Job Training Partnership Act and the private sector, we are encouraging everybody to hire these kids, including hiring 70 of them ourselves, and we are blending private contributions with all the scholarships available, so, this year 500 foster youth will be able to go to college.

And, please, consider dropping the age for independent living from 16 to 14. Congress should and must act to improve safety, increase adoptions and create opportunities for young people who emancipate. Hundreds of thousands of children desperately need

you and Los Angeles County is ready to work with you on this very, very important agenda.

Thank you.

[The prepared statement follows:]

STATEMENT OF PETER DIGRE, DIRECTOR, LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES JUNE 27, 1996

I. INTRODUCTION

Chairman Shaw, Members of the Subcommittee. Thank you for the opportunity to testify today on the subject of federal adoptions and child welfare policy. My name is Peter Digre and I am the Director of the Los Angeles County Department of Children and Family Services, a public child protection agency which, during 1995, responded to more than 170,000 reports of child abuse and neglect. My Department is the largest child protection agency in the country. Today, and every day, I am personally responsible for the protection and care of more than 70,000 children. In addition to providing child protection services, my Department also is a full-service adoption agency. Each year, we are involved in the adoption of approximately 2,100 children.

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

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

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

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

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

The final tragedy of children growing up without lifetime parents occurs when they grow up and leave foster care, in

most states at age 18, and become fully independent without a family to rely on. This is nearly an impossible task, one that my 18 year-old daughter could not have achieved and one that I do not believe I could have achieved. Indeed, I am 51 years old and my mother still keeps a bedroom in her house for me. I will, therefore, never become homeless, but some studies indicate that as many as 45% of 18-year-olds who leave the foster care system do become homeless at some point.

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

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

II. EMPHASIZE THAT CHILD SAFETY IS THE FIRST PRIORITY

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

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

1. Specifically state in the statute that "reasonable efforts" do not include efforts that place a child in danger;

2. Judges, hearing officers and child abuse workers must make specific statements of facts which indicate why they conclude that children will be safe in family preservation or reunification decision-making;

3. Lawyers and guardians ad litem who represent children must advocate only for decisions which are consistent with child safety. This clarifies a significant legal ambiguity since some lawyers assume that they must represent the wishes of the child client even if the child's wishes were incompatible with safety.

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

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

For example, in Los Angeles we have developed 28 Community Family Preservation Networks (CFPNs). Families with serious histories of violence or sexual assault are excluded unless the perpetrator can be removed.

Community-based networks must visit each child in their home either four, eight or sixteen times a month depending on the intensity needed.

Each CFPN must organize 23 key family supports, including drug treatment, housing, day care, transportation and jobs and other income supports, as well as the in-home visitation.

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

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

- 85% of the time we are able to successfully preserve families in this program.

- During the first three years of our original twelve programs, 30% fewer children went into foster care in the communities they covered. The growth of African-American children in foster care was stopped dead, even as other groups showed rapid growth.

- Despite the implementation of the family preservation programs, child deaths declined in Los Angeles County for four consecutive years, from 61 in 1991 to 39 in 1994.

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

- minimal standards for in-home visitation;

- forensic pediatric examination for physically and sexually abused children;

- regular pediatric care for foster children;

- a timely response and resolution for each allegation of abuse and neglect;

- background screening of alleged abusers and foster and relative caretakers, including criminal and abuse screening;

- risk assessment;

- training for foster parents, including relative caretakers and child abuse workers.

III. EMPHASIZE LEGAL PERMANENCY

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

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

1. Reject unreasonable efforts. Recognize in the statute that there are classes of parents for whom "reasonable efforts" and family preservation and reunification are or may be inherently unreasonable. These include:

   - parents who kill or maim children;
   - parents who aggressively sexually assault children;
   - parents with histories of violent criminal behavior;
   - parents who abandon children in life-threatening circumstances;
   - parents with long-term and chronic addictions.

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

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

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

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

Many of these children face homelessness, many have highly incomplete educations and many will become involved in crime to support themselves. Since we did not provide permanent families for these children, we owe them the basic opportunity to succeed as adults. Congress should:

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

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

   The state's plan to achieve these goals should be incorporated in the Title IV-E plan.

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

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

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

   - blending public and private housing programs and foundation resources to create 400 apartment beds for emancipated youth, spearheaded by a very substantial grant from the Weingart Foundation;

   - using the Job Training Partnership Act (JTPA) and the private sector to create jobs for all older foster youth. Targeted employment efforts should generate 2,000 jobs this year for older Department of Children and Family Services foster youth;

   - encouraging local government and contractors to hire emancipating foster youth. My department has hired over 70 such youth with excellent results, including the use of 30 of them to be Emancipation Assistants to help younger children prepare for independence;

   - encouraging blending private contributions with college, state and federal scholarships to enable emancipating foster youth to go to college. This year my department has requests from 500 of our 800 emancipating youth for college scholarship assistance, and we will be able to honor all of them, thanks to the generosity of our community.

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

V. CONCLUSION

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

Mr. CAMP. Thank you, Mr. Digre. I appreciate that and the Subcommittee will be in recess.

[Recess.]

Chairman SHAW. We will resume. I know that Mr. Camp is coming back. He indicated that he had some questions that he wanted to pose to the witnesses.

I will ask a few questions. I apologize to the last three panelists for the time that I was out voting, but I knew this other vote was coming up and I thought the best thing for me to do was to wait and do that and then I could try to move the hearing along as quickly as possible.

Judge Levy, you were here, I believe, to hear the testimony of the two previous panels?

Judge LEVY. Yes, I was.

Chairman SHAW. And, as I understand from your testimony, you have got trouble with the language of the existing law as to what is reasonable and trying to balance the rights of the biological parents with the prospective adopting parents.

Judge LEVY. I think it is vague and I think it has caused problems for judges because of its vagueness. I think, though, in listening to this Committee, that if provisions are made for specific types of situations, and the term has been used, fast track. And fast track is a very good term for it.

And as I was explaining, like we have in Florida, there are certain cases that should be fast tracked. A child is completely abandoned. That child, after 6 weeks, can be put up for termination of parental rights and immediate adoption.

If there is a pattern of continuing abuse where no services are going to be helpful, that case can be put up for termination of parental rights. If the abuse is so egregious that case also, immediately, forget it, no dependency petition, straight to termination of parental rights.

Risk is always the factor. And, I think that we, in the national council, have tried. The most troublesome area is substance abuse. You were very correct when you spoke with the mother that was here earlier, it's convincing a parent that their children are more important than that little bag of white powder. It is a very troublesome issue, but the example that I heard earlier, a cocaine-addicted mother giving birth to her 8th cocaine baby. I mean that, to me, is ridiculous.

Chairman SHAW. That's a whole other subject and I did some work on that some years ago. I mean this whole tragedy of a cocaine baby, I think anyone would agree that to me is prima facie child abuse.

Judge LEVY. The use of cocaine is one of the problems in Florida, and there is no hard evidence that cocaine, in and of itself, is child abuse. That's what makes it difficult to prove at the time of trial. And it puts the State or whomever is prosecuting those particular cases in a very difficult situation. So in many cases they are more interested in getting the mother in treatment and delaying the timeframes that could be involved because they have difficulty proving that that really is abuse, neglect, or abandonment.

Chairman SHAW. Several years ago I was at the neo-natal unit in Broward General Hospital and my wife and I were in there and

we were looking at—there was actually a larger population of cocaine babies at that time, than I understand there is today—but one of the babies, I mean they just shake. It's an awful thing to see. They look like little spider monkeys, they are so tiny.

Judge LEVY. Well, there's no question that they can be premature and that they can go through withdrawal but they just completed a study in Miami. I do not know if you saw it in the paper, I do not know if they still read the Harold in Fort Lauderdale, or not. But, at a local facility, the Linda Ray Center——

Chairman SHAW. Did you say, do they sell the Harold in Fort Lauderdale?

Judge LEVY. I said, do they still read the Harold in Fort Lauderdale?

Chairman SHAW. Do they still even deliver it? [Laughter.]

Judge LEVY. OK. A study on the kids were 3 years old at this point, and they were cocaine exposed and it did not show any developmental delays at that point in these children. So, it's hard at this point. I do not think there is enough hard evidence.

I think the suggestion that was brought up earlier that if you have got 12 months where the parent doesn't make any efforts at rehabilitation with the prima facie evidence, perhaps, of neglect, it is a very good idea. And it would give the State enough power to go in and get that adjudication.

Chairman SHAW. Yes. It's hard to nail those things down, but earlier studies did show that these youngsters are disruptive in class, they have attention disorders. I mean you are running into all kinds of things, but a lot of that could be from the type of home that they're coming from because of the use of drugs in those homes. So, it's always hard to really nail that down.

But, to complete the story that I was talking about, the nurse was explaining to us that the mother of this little cocaine-addicted baby had a tatoo on her arm that said, "Cocaine" that was larger than the baby.

And while we were there in the neo-natal unit, the baby died. It was something that made quite an impression upon me as just to the total confusion of the situation.

Judge LEVY. I think substance abuse issues are probably the most difficult issues to deal with, because it is such a difficult area, and——

Chairman SHAW. But as I mentioned to one of the earlier witnesses, George Miller, the success rate of cure is very dismal. And Ms. Benn was testifying to us and she evidently, at an early time, made the decision to take her children rather than take the drugs, and things have turned out very well and she said her kids are really great students and I'm sure she's proud of herself and of them.

But, unfortunately, my guess is that hers is the exception and not the rule.

Judge LEVY. I think you are right.

Chairman SHAW. Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman.

Mr. Digre, I want to thank you for being here, I think you get the long-distance award today. I know you have testified before

this Subcommittee on other occasions, and you always give very good and informative testimony. I just had a question about something.

You mentioned that legislative intent regarding child safety should be clarified in statute. I wonder if you have any specific recommendations for changing Public Law 96–272? If you wanted to later submit any written recommendations for the record, certainly that would be possible. But I wondered if you have any ideas today?

Mr. DIGRE. Yes. I would just say very clearly a statement of legislative intent that child safety is always the first priority. And I probably would qualify reasonable efforts by saying a little more strongly than it does, that reasonable efforts must not place children in danger. Just make that as a definitive statement.

I would say something in there that judges and child abuse workers must state explicitly, when they make decisions, why they conclude children will be safe. Just lay it out why they think kids are going to be safe.

I think a serious issue is lawyers who represent children are very confused about what they should be doing and I think it should be clear that they should only advocate for the decisions that are consistent with children's safety.

I think there are a lot of parents—and I thought Senator DeWine was so eloquent on this—people who maim children, people, as we've said, have lost lots of children to permanent placement, people who sexually assault children, and others, we should just give up on. We should just move straight to adoption and give those poor children a chance because there is no technology in this world that can change people like that with any assurance.

So, I think there are groups we should just give up on. And, finally, I think very explicitly, we should say that reasonable efforts, the State should be required to make reasonable efforts to get kids adopted. If you look at the way the law reads now, reasonable efforts are for family preservation and reunification. And I think there should be a very clear statement that there must be reasonable efforts and a plan to get kids adopted.

Those are some of the specific kinds of things that I would suggest.

Mr. CAMP. We had earlier testimony about having a presumption of termination of parental rights for particular crimes. That is kind of along the lines of what you were saying. But also about time limiting and particularly with regard to very young children. Could you comment on those?

Mr. DIGRE. Totally, totally in favor of it. I mean there are people who commit acts of such danger that they just—it's just totally dangerous and unreasonable to give them a second chance. And children grow up—hey grow up very quickly and childhood is over.

So, for maybe, 6 to 12 months, all the chance that anybody realistically should deserve. Maybe for older kids, 12 months with a possible extension to 18 months. That's our California current law.

But, some time limits, just to structure the accountability, are absolutely essential.

Judge LEVY. Can I just add one thing?

Mr. CAMP. Thank you.

I have limited time and maybe if the gentleman——

Chairman SHAW. You may take as much time as you need.

Mr. CAMP. Thank you. I will be happy to get to you but I just wanted to ask Mr. Liederman a question kind of along this line.

You mentioned in your testimony about the reasonable efforts standard and that some of the confusion is a result of the fact that no guidelines have been issued in 16 years to give us some understanding.

What would you have Congress do? Would you have Congress require the Department of Health and Human Services to develop written Federal guidance in statute and have us pass a law requiring them to do that? Or maybe rewrite the law with some of the clarifications we have heard about today regarding safety and danger and time limiting possibly?

The third option is to do nothing, which I do not think anyone here is advocating. But what are your thoughts on that just briefly, and then I will go to Judge Levy.

Mr. LIEDERMAN. Well, I think I mostly agree with Peter in terms of what he has laid out but, you know, I think you would all agree that there is a limit to what you can do in the law. You know, I think you can write certain things into the law around child safety, you can write certain things into the law around making reasonable efforts to expedite adoption. You can do certain things in the law but then the Department of Health and Human Services does need to develop a process that results in Federal guidance being provided to the States and the counties to help them to understand what the law really means.

And, I do not think that it would be presumptuous at all for this Subcommittee to instruct the Department of Health and Human Services to issue Federal guidance on the question of reasonable efforts. I mean we have all had enough experience.

I think where there is agreement, there is no disagreement that any child who is in an unsafe situation should be left in that home. OK? If you cannot, if I'm the child protection worker, you have been a child protection worker, and if you cannot go to sleep at night and know that that child is safe, or you have any question in your mind that that child is safe then you are not doing the right thing by leaving that child in the home.

So, but, again, it is a judgment call. It's a judgment call and it's a hard judgment call in some instances. And you have to balance that against the fact that most of us know, from a child development point of view, that the best place for kids is with their own family.

And as Peter pointed out in his chart, the success rate has been reasonably good with family preservation and family reunification for a lot of families. But there is that percent where it hasn't worked and where kids have been left in unsafe situations and the question is, how do you address—you know, you do not want to throw the baby out with the bath water. The notion is a good notion. The notion of keeping kids with families, where it is possible, is an absolutely good notion, where it can be done safely.

And how you do that is not easy. But that is why I think the Department of Health and Human Services should begin a process where they bring people together from around the country who

have had a lot of experience with this and they try to quantify and put down on paper, what can we all agree to that it means? Because we all agree, in principle, with what we would like to see happen.

Mr. CAMP. Thank you. Judge Levy.

I do not mean to put you on the spot, I thought you had a couple of comments to make.

Judge LEVY. I do. I wanted to show you something that is a product of the National Council of Juvenile and Family Court Judges that I asked to be distributed and we sent a bunch of them up here.

It was really a protocol for handling child abuse and neglect cases developed by the National Council and it is based on a model that was developed in Cincinnati, Ohio. And there have been a number of model courts set up now throughout the country that stress really intensive services or decision for removal within 30 days before the case comes to court, guidelines that the case is set for trial within 30 days, disposition within 30 days, limiting the time for case plans to 1 year, and holding to those particular time limits.

And it is really a document that is worth looking at. And every place that I've been and judges that we've given them to have shown tremendous interest in this particular area. I think it can serve as a valuable resource.

Chairman SHAW. Judge, I'm pleased to be able to tell you that we did send a copy of that publication to every Member of this Subcommittee.

Thank you for bringing it to our attention.

Let me ask one final question to Ms. D'Ambra, speaking of fatalities and what you have been able to do. I have your written testimony here. But in the course of conducting the fatality reviews and reviewing the work of the Rhode Island Department of Children, Youth and Families, have you discovered situations in which either the Federal law or the State legal precedent have been misunderstood or misapplied by the Department legal staff and/or cases such that a caseworker might believe that their mandate is to make every possible effort, every possible effort for reunification?

Ms. D'AMBRA. Yes, Mr. Chairman, unfortunately there have been many such cases in which workers and attorneys for the Department did interpret reasonable efforts to mean every effort possible for years and years. One of the cases that I cite in my written testimony was a fatality report that we issued in 1994, the Eric D case, and that was the case in which the father had absolutely no contact with the child for almost two-and-a-half years of his life. And the child had been in foster care with the same foster mother for that entire time period. The mother had a very serious drug problem and had virtually abandoned the child.

The father had denied paternity initially and then when the Department went forward with termination of parental rights, he claimed that he had a right to reunification. And if the Department had closely looked into the past of this particular father, they would have learned that there were other incidences of very serious child abuse, that under Rhode Island law, where it would have con-

stituted cruel and abusive treatment, reasonable efforts would not have to have occurred.

That child was with the father for less than 1 month and the father killed him and has been convicted by a jury in Rhode Island.

Chairman SHAW. In reading over your testimony it seems that Rhode Island has come a significant way as far as drafting legislation to fill in some of the gaps and some of the problems that other jurisdictions might have in the interpretation of the Federal statute.

Do you have any suggestions as to changes that we might want to make in the Federal statutes in order to accommodate the concerns that Judge Levy and others have as to the severing of the biological parents' rights?

Ms. D'AMBRA. Yes, Mr. Chairman, I believe it would be feasible to better define reasonable efforts and to include in the Federal law codification of some of the changes that we have made in Rhode Island and certainly many of the issues that have been discussed at today's hearing with regards to substance abusing parents.

For example, if a child has been under care for 12 consecutive months due to parental substance abuse, that that would constitute prima facie evidence at trial of chronic substance abuse. If a parent is unable or unwilling to be rehabilitated then, I think, certainly 1 year is more than enough time to make that determination.

And setting timelines. We have established timelines for children under age 10 who have been in the care of the State for up to 1 year, where the Department would be required, by the family court, to file a termination of parental rights petition unless there is an actual finding that it is not in the best interest of the child.

I think also better defining best interests of the child so that when a child has been in a foster home for a long period of time and has a preference to stay in that foster home, that these factors are all considerations that are looked at in defining best interest of the child.

And, then, of course, the most obvious is what we have talked about involving the parent who has already abused a child and the act of child abuse is so heinous that it would constitute cruel and abusive treatment, then there absolutely should be no reasonable efforts. And that is what the law requires in Rhode Island and this law was upheld by the Rhode Island Supreme Court.

Additionally, if a parent has previously had their parental rights terminated and the same conditions exist, it is really ridiculous to have the Department start all over again in making reasonable efforts. So, we have in Rhode Island a statute where the family court would have to make that determination that reasonable efforts are not feasible and the Department would not have to make those efforts for subsequently born siblings.

Chairman SHAW. Excuse me for talking over your head but I have a question for Mr. Dean. In your situation had the biological parents' rights been severed and then reinstated?

Mr. DEAN. They had never been severed.

Chairman SHAW. OK.

Well, thank you very much and I thank this panel. We certainly appreciate the time and appreciate your waiting it out this late, starting at 1 o'clock.

We have certainly shown that we have got some problems here that we have got to address. One of the things, Judge Levy, we do not want to take away your discretion by being overly descriptive, because we certainly will never be able to replace the judgment of a judge who is looking into the witnesses, eye to eye. But, obviously, we have left too many holes open where the judiciary has been concerned about the interpretation of the law. And it is a very serious thing to terminate parental rights, there is no question about it.

And you certainly do not want to err in that regard, but I think, Mr. Liederman, as you said in your statement, if you are worried about that child one bit, then you've probably made the wrong decision.

Thank you very much, the hearing will be adjourned.

[Whereupon, at 4:42 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

Lynda Carter Cajoleas, RN, MSW
11300 West Road Roswell, GA 30075 770 998-5106

Licensed in Georgia and Florida

April 18, 1996

Federal Lawmakers
The Capitol
Washington, DC

re: Proposed addition to family reunification mandate

To Whom It May Concern:

The deaths of at least five children each day in America as a result of child abuse and neglect compel me to ask for your assistance. These five deaths are only the confirmed child abuse and neglect deaths. This number does not include children who die as a result of abuse and neglect yet whose death certificates inaccurately cite other causes of death. Nor does this number include children who are maimed or whose injuries result in lifelong vegetative states, mental retardation, character disorders, and numerous other mental, physical, spiritual, and moral illnesses. Death can be the most merciful outcome for many of these children. The ones who survive to a "chronological" adulthood experience the effects of abuse to varying degrees forever. The fact that some are astoundingly resilient and go on to make our world a safer place for children does not diminish the collective shame we should feel by our current lack of zero tolerance of child abuse and neglect.

Why your assistance? We know the intent of the P.L. 96-272 was not to increase abuse, neglect, and murder of children. Yet in every state of our country many children have been inappropriately reunified with their perpetrators as judges and caseworkers cite the federal reunification mandate as justification for their decisions. I believe you could greatly decrease the number of abused, neglected, and murdered children by a simple addition to the mandate. Families at risk do need assistance to preserve their families as long as this assistance does not place a child in harm's way. We must, however, preserve the child first.

Please amend current reunification legislation to include the following list of circumstances where reunification attempts shall not be allowed:

1. There is a medically verifiable deficiency of the parent's physical and mental health of such duration and nature as to render the parent unable to provide adequately for the physical and mental needs of the child.

2. There is excessive use of or history of chronic unrehabilitated alcohol and/or substance abuse and misuse with the effect of rendering the parent incapable of providing adequately for the physical and mental needs of the child.

3. A newborn baby is abandoned or born drug addicted or with fetal alcohol syndrome.

4. There is a conviction of the parent of a felony and imprisonment therefor which has a demonstrable negative effect on the quality of the parent-child relationship.

5. There has been egregious conduct or evidence of past egregious conduct of the parent toward the child or toward another child of a physically, mentally, or sexually cruel or abusive nature, including neglect and abandonment.

6. There has been injury or death of a sibling under circumstances which constitute substantial evidence that such injury or death resulted from parental neglect or abuse.

7. The court is unable to show through clear and convincing evidence the child's physical and mental welfare will be protected through reunification.

Respectfully submitted on behalf
of every child in need of protection.

Lynda Carter Cajoleas

LCC/ccr

Patricia A. Flory

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July 9, 1996

Philip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 10515

Attention: Honorable E. Clay Shaw

RE: HEARING ON BARRIERS TO ADOPTION 7/12/96

Dear Honorable Shaw:

The Child Welfare Act of 1980 (P.L. 96-272) is in dire need of critical evaluation and consideration. The "reasonable efforts" clause for "reunification" is interpreted in the State of California to be the primary goal for the Department of Children's Services as well as the Judicial System dealing with dependency cases. "Reunification" is the aim both for children who have been with birth parent(s) and for those who have been abandoned, therefore having nothing to "reunify".

I am a children's advocate and have been actively working in this area as a volunteer for over 2 years. I cannot begin to tell you how many caretakers I have spoken with who have loved and cared for children in California and throughout this country, who see children treated only as chattel, with little, if any, concern of the child's best interest but placing total and supreme effort in "reunification."

I would like to site my own situation as a foster parent. On Dec. 1, 1992, I received a foster child who was 8 months old. She had been abandoned by her mother in the hospital at birth. According to hospital records, the child was born 3 weeks premature, but weighed only 3 lbs., 7 ozs. The baby was drug addicted and fetal alcohol syndrome. Two and one-half weeks after birth she was placed in a foster home.

This child came to me at 8 months of age weighing 13 lbs., was a "failure to thrive" and the original foster family had asked for her removal because "she wouldn't sleep at night." The only contact she had with her biological family was one visit by her maternal grandmother and the child's sister when she was approximately 1 month old. During the time I had her there was no contact from the family.

After 2 or 3 months the child began to thrive and blossom. She was very personable, friendly and a joy for all who came in contact with her. I was told by a retired nurse after I had had her for about 6 months, that the child would have died had she not been loved and cared for by me.

When the child was 15 months old the Children's Service Worker (CSW) "found" the mother. She was on the streets and was an alcoholic and drug addict with at least a 15 year history. She had given birth to 4 other children, one was a SIDS and the other three children had been raised by the maternal grandmother who had legal guardianship.

The birth mother went to court saying, "I want my baby back, I'll do anything." The court ordered her into a 90 day rehab. program. From Sept. through Dec. of 1993 the mother had sporadic 1 hour monitored visits. The mother was transported to these visits by either the rehab center or the CSW. The child would regularly react

behaviorly after these visits. She had "night traumas" which had never happened prior to the monitored visits. I regularly reported behavior changes, but the CSW's total focus was on the mother and "reunification".

Weekly 1 hour monitored visits continued through March of 1994. In April the court ruled that the child would have unmonitored week-end visits. Needless to say the child suffered with serious emotional and behavioral changes after these visits. She would scream and cry hysterically on the way home after the visits. The case worker who was assigned from the Foster Family Agency went with me to pick her up from a visit and personally experienced the hysteria. The case worker described it as "psychic trauma". Again this was regularly reported to both the Department of Children Services and to the minor's attorney in Dependency Court.

In April or May of 1994, I called the Department of Social Services in Sacramento and spoke with Marjorie Kelley who is directly responsible for Children's Services in this State. I explained to her the situation and she asked if the court had set up a "program" for the mother. I replied, "Yes." She then said, "Then the program for the mother is what will be considered." I responded, "Do you mean that the program is more important than the best interest of the child?" She did not respond, but her silence affirmed my question. I simply do not understand why a "program" is more important than a person.

Because I reported these behavioral changes and tried to represent the child, I became considered a "troublemaker" and "interfering with reunification". During the last days of the hearing, on May 31, 1994, I was on the witness stand answering questions. Many of my responses began with "If it is in the best interest of the child. . ." At one point, the supposed father's attorney directed a question to me: "Putting aside the best interest of the child. . ." I was so shocked that I was in Los Angeles County Children's Court and being told to put the child's interests aside. To me this phrase, "Putting aside the best interest of the child. . ." is the summation of the interpretation by Children's Services and Dependency Court of the Child Welfare Act of 1980 (P.L. 96-272).

As you know, there is money involved. The County receives Federal money for "reunification". To me this is fundamentally wrong. It puts a price tag on children. As in my case, CSW's spend far more time with parents, tracking them down, shuttling them to court, to visits, etc. The title "Children's Service Worker" gives the impression that the child is the priority. This is a misnomer. In my case, I had the child for 18 months and the "Children's Service Worker" visited only 2 times in my home.

A post script to this: One week after the case was closed in Dependency Court, the mother was back on the streets, high on drugs and showed up with the minor at the DSS office requesting AFDC. No action was taken. The County had its money - "successful reunification", the maternal grandmother apparently was taking care of the child, so all the adults were happy. No one cared about the child. The case was not reopened.

I was denied visitation - "It will hamper the bonding. . ." I have been unable to learn anything about the child except through sources at the Los Angeles Commission for Children and Family Services, and of course I'm not supposed to know that information - "Confidential".

Children who come into the system because of neglect and abuse, but as soon as they are in the system, a program is set up to "reunify" with the family. I have seen numerous children who have been placed in the "system" because of abuse, but then abused even more by the "system" which is supposed to "protect" them.

Personally, I think that there should be no money involved from the government

to the state/county for reunification. The child(ren)'s needs: psycological, emotional, and physiological, should constantly have the highest priority. If these "families" want "reunification", they should make the first step. The adult(s) should contact the department - not the department finding the adult(s). If the adult(s) can afford an attorney, they should have to pay attorney fees.

I have seen cases where the biological parent(s) make more money than the caretaker, they pay no support for the child, but if the caretaker wants to defend the child, an attorney must be hired (and then of course, the system goes after the caretaker saying he/she is a troublemaker, because they have hired someone from the "outside"). If birth families truly want their child(ren) who have been removed from their homes, it is their responsibility to request assistance.

I firmly believe that in my "daughter's" case, had the Children's Service Worker, not actively gone out to find the mother, had the CSW not physically taken the mother to court and told her what to say, the trauma to the child would never have happened. I believe that the child would have continued to thrive and be nourished and now have a safe, secure and loving environment in which to flourish. Can you imagine being abandoned 4 times by the time you are 3 years old? My child was abandoned at the 1) hospital; 2) by the first foster family; 3) by me at the order of the court and then 4) again by her mother. Is this meeting the needs of the child? Is this healthy? Is it making a better society? Is it creating a secure future for our country?

In Los Angeles County we have Family Preservation, of which you are probably aware. This program has incredible funds from the Department of Children and Family Services to "assist" in "family reunification". The most recent numbers that I have seen for this program is around 40% success rate. For the amount of money, time, and effort involved (which affects only about 300 families in a county that has close to 70,000 children in the system), a "40% "success rate" seems extremely low to me. I know of no business or organization in the private sector which would be able to continue with these figures. As a taxpayer, I am appalled and disgusted to see our money being spent to support such inadequate systems as Family Preservation and Children's Services as they currently operate.

Please understand that though this is my own personal experience it is repeated over and over and over and over in the State of California and in the United States.

In my work as a children's advocate I have spoken to the L.A. County Board of Supervisors, been to Sacramento several times to speak with legislators. I was in Washington, D. C., in April to speak with legislators regarding the criminal way we as a nation are treating our nation's children. I, along with others from California, spoke at length with The Honorable Ed Royce, who has a heart for children and carried legislation in the State of California to better protect children.

I sincerely hope that this Committee Hearing will consider and recommend at the least, serious changes if not a complete overhaul of the Child Welfare Act of 1980 (P.L. 96-272), placing the needs of the child(ren) as the highest mandate.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Patricia Flory
Children's Advocate

Grandparents as Parents, Inc.

July 6, 1996

Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: Hearing on Barriers to Adoption, June 27, 1996

To Whom It May Concern:

Grandparents As Parents, Inc. offers support groups for kin caregivers. I answer a "warm-line" for relatives concerned about safety of kin and have been in the system off and on for seven years due to the idea of "family reunification." "Family preservation" is another program within the system that is causing death and injury to children.

Some examples I have heard include the 4 month old infant who starved to death with a full case of formula in her home. Her mother was "addled on drugs" and in a family preservation program that had supplied the formula but didn't see that the child received it.

Lance Helms' grandmother had contacted us about visitation and her concerns for his safety. Lance was murdered a year later by his father's live-in girlfriend when he was <u>unified</u> with his heroin addicted father. He was still in the system and returned several times after abuse was reported.

A three year old girl has been returned to mother several times only to go back to her grandmother when she has been injured. The baby's mother said she was "not ready to be a mother" but the judge ordered the baby returned to her. Grandmother had her back in a short time when the mother said "pick her up before I hurt her." The grandmother already has guardianship of the older brother of the little girl because his mother has stated she does not want him. He was severally abused before the grandmother got him. The father is just out of prison and has threatened to harm the people who are trying to protect his children. They are living in fear of their lives.

A little boy with Cystic Fibrosis has been in the system for 5 years. He lives with his grandmother who has given up her job and social life to care for this medically fragile boy. The uncertainty of being returned to his mother who is a drug addict who smokes in his presence and does not do his medical

treatments when he spends time with her is always there. How long should we keep a child in suspense?

My grandson had lived with us most of his life. His mother had beaten him three times before he was six months old and abandoned him at two years of age. Eight years later and a $35,000 mortgage on our home trying to protect him he was given to his mother. The comment by the judge was "his mother has an unresolved drug problem and the boyfriend is alcoholic" but he was sent to live with them.

For the next four years he was knocked around, yelled at and not provided food. He ran the streets to get away from violence in the home. He finally ran away from home and was placed back with us.

In our home he was always loved and cared for but he is among the "walking wounded." He was four years behind in school when he was returned, with no study skills and no desire to learn them. He never smiles and seems to have little remorse when confronted with wrongdoing. He has lost all faith in adults because of the many who have failed him. Not only his mother and father but social workers, judges and attorneys in dependency court whose job was to protect him. The officials did not listen when he told them where he wanted to live and later when he reported abuse to the judge he was told "learn to live with it."

Now that he is soon to be fifteen he has the usual teenage feelings compounded by the abuse of the last four years. He arrived with only the clothes on his back and no one would try to retrieve his things. How many adults could walk away from all their personal belongings and not be bitter? He is in group therapy with other teenagers trying to deal with the anger. He does not wish to see his mother and she has had no contact as she has once again disappeared and once again he is trying to pick up the pieces of his life.

One agency in San Diego, CA assisted in 2,000 reverse guardianships last year of children whose relatives can no longer deal with older children with behavioral problems. These problems were caused by drug exposure before birth, no stability, physical and emotional abuse and the many other unspeakable horrors they have been exposed to in their short lifetimes.

The Adoption Assistance and Welfare Act of 1980 (P.L. 96-272) was enacted to address the national problem of the growing number of children in out of home placement. The original concept was that there is a unique bond between a child and its parents. We are finding this is not necessarily the case. Family reunification and family preservation are joint

problems in furthering the cycle of abuse. A fifteen or more year drug habit or mental incapacities are not cured in 18 months. Prior abuse is an indicator of future abuse.

We are asking that this act be amended to place the physiological and psychological welfare of the child above all else.

Agencies (hospitals, Child Protective Service, doctor's offices, schools, etc.) should be required to exchange information regarding a child.

Attorneys for the child should be required to speak to, and obtain information from, social workers. Confidentiality laws may be beneficial in certain circumstances but they frequently do not protect, but rather are harmful to an abused child.

More attention than we currently see should be paid to what children say and/or play out.

We need to remember, reunification cannot take place when there has never been unification. Also not all families can be helped with a family preservation program.

We know the intent of the Family Preservation Act and the reunification mandate was not to increase abuse, neglect, and murder of children. Yet in every state many children have been inappropriately reunified with their perpetrators as judges and caseworkers cite the federal reunification mandate as justification for their decisions. Families at risk do need assistance to preserve their families as long as this assistance does not place a child in harm's way. We must preserve the child first.

Sincerely,

Rosalie Cauley

Rosalie Cauley
Director/Secretary

Mary Hantman
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July 5, 1996

Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Attention: Honorable E. Clay Shaw, Jr.

Re: Hearing on Barriers to Adoption 7/12/96

Dear Hon. Shaw:

The Family Reunification Act mandated by the federal government and interpreted by the states has resulted in children being returned to abusive homes where drugs and alcohol may dominate their parents' lives. Many innocent children have lost their lives as a result. Others live in daily peril. A saner, more logical approach would be to turn them over to qualified, willing family members, such as grandparents and other kin. Removing barriers to adoption is an important means of addressing the crises of the nation's child welfare system.

While many families can and should be preserved, there are some families and caretakers that cannot be rehabilitated and reunification cannot take place when there has never been unification. In many instances, the child has never lived wtih his/her birth parents.

I hope the result of this hearing will lead to successful legislation that will promote the physiological and psychological well being of the child first and foremost.

I enclose for review the following articles:

1) Child Abuse and Neglect Fact Sheet by the National Clearinghouse on Child Abuse and Neglect
2) "What I Need Is A Mom", Conna Craig, President of the Institute for Children, Policy Review - Summer 1995
3) "Adoptable Kids Go Wanting", USA Today 3/14/96
4) "Family Foster Care Placement: The Child's Perspective", Voices, May-June,1996

Mary Hantman
Grandparents United for Children's Rights, Inc.
36-19 167th Street, #1D
Flushing, NY 11358
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e-mail MHant527@aol.com

5) "Whose Hand Should Rock The Cradle?", Los Angeles Times Magazine, 10/1/95
6) Newsday, 5/26/96 - Adoption Tax-Credit Debate and Interracial Adoption articles
7) Newsday, 6/22/96, "Places In The Heart"

Very truly yours,

Mary Hantman

Mary Hantman, President
New York Chapter

"WHAT I NEED IS A MOM"

The Welfare State Denies Homes to Thousands of Foster Children

CONNA CRAIG

John, 10, is one of America's children who waits. He waits for a home, and he has been waiting nearly all of his life. When John was a toddler, his drug-addicted mom lost her parental rights, and claimed not to know who the father was. John has been legally free to be adopted since he was three, but instead has lived in state-run foster homes and group homes. While his childhood slips away, John's social workers debate his best interests and the programs they hope will address them. But this skinny kid who loves baseball knows better: "I'm all wrapped up in programs," he says. "What I need is a mom."

Across the country, there are 50,000 foster children like John, who no longer live with their mother or father and have been declared by courts as free to be adopted, but who languish for months or years in state-run, state-funded substitute care. On any given day, nearly 400,000 other children—none of them eligible for adoption—can be found in government foster homes, group homes, and shelters. Many of them are kept there by absentee parents clinging to the legal rights to their children.

Foster care and adoption in America have sunk to a state of near-catastrophe.

According to the American Public Welfare Association, the population of children in substitute care is growing 33 times faster than the U.S. child population in general. During each of the past 10 years, more children have entered the system than exited. Every year, 15,000 children "graduate" from foster care by turning 18 with no permanent family; 40 percent of all foster children leaving the system end up on welfare, according to the American Civil Liberties Union.

What was for most of America's history an entirely private endeavor has become a massive, inefficient government system. State agencies consistently fail to recruit enough families for the children eligible for adoption every year; potential parents often are turned down because of racial considerations, or turned off by protracted and unnecessary waiting periods; cumbersome state regulations extend to private adoption agencies and can even prohibit private attorneys from handling adoptions. The result is that tens of thousands of children are now free to be adopted but have nowhere to go.

This is the dirty little secret of the welfare state: Every child is adoptable, and there are waiting lists of families ready to take in even the most emotionally troubled and physically handicapped children. Government adoption policies are utterly failing in their most basic purpose—to quickly place children who are free to be adopted into permanent homes.

The problem lies not with the children. What keeps kids like John bound to state care are the tentacles of a bureaucratic leviathan: a public funding scheme that rewards and extends poor-quality foster care; an anti-adoption bias that creates numerous legal and regulatory barriers; and a culture of victimization that places the whims of irresponsible parents above the well-being of their children.

I can identify with these kids. I was a foster child in a family that cared for 110 children. That family—my family—adopted me in the early 1970s. Years later, as a student at Harvard, I happened upon a book of statistics on children in state care. I was stunned to learn that decades of research, policymaking, and government funding had only intensified the system's failures. I was one of the lucky ones, but luck will not stem the tide of parentless children. By the year 2000, well over a million children will enter foster care, and tens of thousands of kids will become eligible for adoption. Unless the government apparatus of foster care and adoption is dismantled, these children could spend their childhoods wishing for what most people take for granted: stability, a family that will last longer than a few months, a last name.

SUBSIDIZING FAILURE

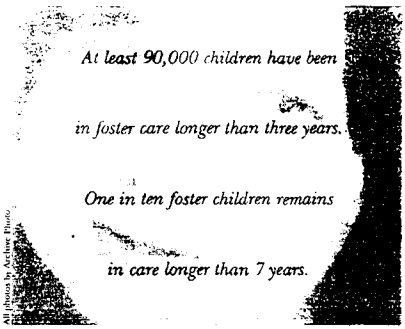
For years the rallying cry of many children's activists has been: "More money!" The National Commission on Family Foster Care, convened by the Child Welfare League of America, says that "family foster care and other child welfare services have never been given the resources necessary" to meet federal standards, and calls for a "fully funded array of child and family welfare services." When it comes to child welfare, rare is the research article that does not call for more money and further research.

America already is spending $10 billion a year on foster

CONNA CRAIG *is president of the Institute for Children, a private, non-profit group based in Cambridge, Massachusetts, dedicated to reshaping foster care and adoption.*

care and adoption services through public agencies. Federal dollars now account for nearly a third of all foster care funding, with most of the rest coming from state coffers. California alone spends at least $635 million a year on substitute care; the District of Columbia spent $53 million last year on a system that was so poorly run it recently was taken over by a federal court.

According to the ACLU, a year in foster care costs



All photos by Archive Photos

about $17,500 per child, including per-child payments to foster families and administrative costs of child welfare agencies. That does not include counseling and treatment programs for biological parents or foster parent recruitment and training. The *San Francisco Chronicle* reports that per-child costs for foster home or group home care have increased more than fourfold in the past decade.

The problem with foster care is not the level of government spending, it is the structure of that spending. The funding system gives child-welfare bureaucracies incentives to keep even free-to-be-adopted kids in state care. State-social-service agencies are neither rewarded for helping children find adoptive homes nor penalized for failing to do so in a reasonable amount of time. There is no financial incentive to recruit adoptive families. And as more children enter the system, so does the tax money to support them in substitute care.

By contrast, private adoption agencies are paid to find suitable families quickly, even if it means going out of state. The public social-service bureaucracy, nearly overwhelmed by other urban problems, has little to gain by devoting extra resources to adoption. Private adoption agencies are free to focus on finding homes for kids and are financially motivated to do so. Private adoption agencies are paid according to the number of successful placements; public agencies, in a sense, are paid for the number of children they prevent from being adopted.

There is a similar reward for foster parents to keep kids in state care. By law, adoption subsidies cannot exceed foster care payments, and in practice they are almost always lower. According to the National Foster Parent Association, foster families in 1993 received anywhere from $200 to $530 a month for each child under age 10, plus additional money from states and counties. The subsidies are tax free, and foster parents receive more money as the children under their care get older. So the longer the system fails to find permanent homes for kids, the more money flows to those fostering.

In some states, payments to foster parents caring for four kids equal the after-tax income of a $35,000-a-year job. The money is tax free. It doesn't take much imagination to see that paying people to parent can lead to mischief. Parents are not held accountable for how they spend their federal and state allocations; for too many foster parents, the children in their homes are reduced to mere income streams. If foster parents don't wish to adopt the children under their care, what incentive do they have to alert other parents hoping to adopt?

Let me be very clear: There are many dedicated and compassionate people in the foster care system, serving as case workers, counselors, and foster parents. My own experience in foster care was a positive one. But I have seen and heard of too many that were heartbreaking failures.

Special-Needs Stigma

I have heard perhaps a thousand times that the children who wait cannot be adopted because they have "special needs." Of course they do—they need parents. They require love and nurturing that endures. But the "special needs" referred to by advocates come with federal dollars attached. In 1980, Congress started offering states matching funds to assist the adoption of children with special needs, which included children of various ages, ethnic backgrounds, and those with severe mental and physical handicaps who may require expensive care. The subsidy was to become available only after a state determined that it could not reasonably expect to place a child without it.

As with so many other federal subsidies, states quickly expanded their slice of the government pie by broadening the criteria for receiving money. Today, nearly two-thirds of all foster children qualify. In some states, special-needs children include kids who have a sibling; are black, biracial, Hispanic, or Native American; are "older," as defined by the state; or have been in foster care longer than 18 months.

Two leading adoption organizations report that there are no national figures available that break down the type of need, or indicate the number of children who have physical or emotional handicaps that would require extra expenses by their new parents. This leaves the door wide open to all sorts of graft and fiscal abuse.

But there are other unintended and unconscionable consequences of this masquerade. One is that the needs of very vulnerable children are downplayed. The plight of a teen-age girl in a wheelchair who requires constant attention is trivialized when she is included in the same group as children whose "needs" are that they are eight years old. Another result—one I see often—is that local social-services departments discourage families from adopting by telling them, "Oh, these kids aren't for you. We only have *special-needs* children." This emphasis on kids with the most challenging emotional and physical handicaps unwittingly contributes to the false notion that foster children are "unadoptable." Ironically, the Adoption Assistance and Child Welfare Act of 1980 that established

special-needs matching funds warned that children must not be "routinely classified as 'hard-to-place.'" Government funding has had just that effect, and it is helping to delay the placement of children ready for adoption.

I am convinced that the entire incentive structure for foster care and public agency adoption helps perpetuate the system's failure. It is a failure rooted in the notion that government funding is the panacea for family disintegration. The National Commission on Family Foster Care claims the foster care crisis is "the logical result of two decades of national neglect in providing funding and services for children, youths, and their families." On the contrary, as long as these children come with tax money attached—with little in the way of accountability—those invested in perpetuating the system will do little to reform it. As one foster child put it: "Everywhere I go, somebody gets money to keep me from having a mom and dad."

Anti-Adoption Bias

Government funding schemes and inefficiencies that prevent adoption exist within a larger framework: a steadily growing bias against adoption. Despite all the sociological evidence of the benefits of adoption, the conviction that a child does best in a permanent, loving, and stable home is all but missing from the ethos of state-run substitute care. How can this be?

In both the popular and elite media, a deep suspicion of adoption is all too evident. Marvin Olasky, a professor at the University of Texas at Austin, has noted that a *New York Times* series on adoption included such headlines as "The Ties that Traumatize" and "Adoption is Getting Some Harder Looks." And what do *Playboy*, *Mirabella*, and *Good Housekeeping* have in common? As Olasky says, each has joined the offensive with an article that warns readers against the "distasteful ... bartering of lives" that supposedly is adoption.

Television writers would have us believe that adoption has no happy endings. TV portrays adoption as shady, risky, and shameful. Over the last year, a dozen programs featured adoption in their plots, and in every case the adoption agency was depicted as callously profit-driven. The adopting families were white, middle-class couples who kept secrets from the authorities or from each other. Birth mothers were unfairly portrayed as selfish or disturbed. The programs paid little attention to the well-being of the children.

Groups such as Concerned United Birthparents (CUB) help give legal expression to this bias. CUB was behind the "Baby Jessica" case that led to the removal of a two-year-old from her adoptive family. Groups like CUB claim that adoption is a feminist issue, that only the outmoded ideal of a two-parent family makes the notion of adoption palatable. As Olasky notes, Joss Sawyer's book *Death by Adoption* calls adoption "a violent act, a political act of aggression toward a woman."

Perhaps more significant, however, is the battle against transracial adoption that has been waged by the National Association of Black Social Workers (NABSW) for more than two decades. Its 1972 position paper reads: "Black children belong physically, psychologically, and culturally in Black families in order that they receive the total sense of themselves." Otherwise, the group claims, black children "will not have the background and knowledge which is necessary to survive in a racist society." Our institute has received letters from adoptive families in many states who have been barred from adopting transracially. According to the North American Council on Adoptable Children, state adoption laws may allow for race-matching, but "their preferencing policy isn't written down."

When it comes to transracial adoptions, there is no longer much doubt that current policies are bringing the greatest harm to the very community they were intended to help: African Americans. Just consider the numbers: Though black families adopt at very high rates, black children represent nearly half of foster kids waiting to be adopted. Fifteen percent of all children in America are black; but 40 percent of the children in foster care are black. State delays in finding homes for black children, as case workers search for "culturally consistent" placements, can keep kids languishing in state care for years.

"These policies are seriously harmful to black children, requiring that black kids who could get good homes be left in foster care," Harvard law professor Elizabeth Bartholet told the *New York Times*. "There is not an iota of evidence in all the empirical studies that transracial adoption does any harm at all....There is plenty of evidence that delay in adoption does do harm."

Such policies reveal a profound misunderstanding of the nature and effects of adoption. To insist that successful adoption means placing a child in a family of his racial or ethnic heritage is to overlook what every adopted child understands intuitively: Adoption is not easy. No matter how much a child's family looks like him, it does not alter the fact that someone gave him up. Having the same skin color as the people in his household doesn't automatically erase that. Only love does. As someone who grew up in a multi-ethnic family, I find it incomprehensible when people tell me that I cannot love my siblings the way I could if our skin color matched.

The population of children in substitute care is growing 33 times faster than the overall U.S. child population. Every year, 15,000 foster children turn 18 with no permanent family.

The Fallout

Attitudes against adoption, whether racially motivated or not, share at least two flaws. First, they ignore all the best

The Myth of Alienation

A common view is that adopted children do not enjoy a healthy relationship with their adoptive parents. Yet a survey by the Search Institute, in Minneapolis, indicates that these children tend to rate their relationships with their parents more positively than does a national sample of adolescents, as measured by affirmative answers to a number of statements about communication and parental involvement.

	Adopted Adolescents	National Sample
Warmth: *There is a lot of love in my family.*	78 %	70 %
Communication: *I have lots of good conversations with my parents.*	65 %	48 %
Family Harmony: *My family life is happy.*	77 %	68 %
Discipline: *If I break one of my parents' rules, I usually get punished.*	61 %	54 %
Parental Involvement: *My parents attend meetings or events at my school.*	52 %	36 %
Support: *If you had an important concern about drugs, alcohol, sex, or some other serious issue, would you talk to your parents about it?*	52 %	47 %

Source: Search Institute.

evidence indicating that adoption leads to positive outcomes for kids. Last year, the Search Institute of Minneapolis released the largest study ever of adopted adolescents and their families (see table above). The study, in which 881 adopted children and 1,262 adoptive parents were surveyed, found that children who were adopted fared as well as or better than a national sample of non-adopted adolescents in self-esteem, mental health, school achievement—even the amount of time spent each week helping others. Adopted adolescents were more likely to agree or strongly agree with the statement "There is a lot of love in my family" than were non-adopted children.

Sociological studies of transracial adoptions are equally encouraging. Rita Simon of American University has conducted a 20-year longitudinal study of transracial adoption. She found that such adoptions cause none of the problems alleged by the NABSW. Rather, black children adopted into white families typically "grow up with a positive sense of their black identity and a knowledge of their history and culture." Simon notes that transracial adoption may produce adults with "special interpersonal talents and skills at bridging cultures."

Second, the anti-adoption movement fortifies the legal and bureaucratic obstacles that are keeping children from finding permanent homes. There are numerous state laws that needlessly complicate or block the process. In Minnesota, for example, if filing deadlines and other technical requirements of state adoption law are not precisely met, parents can be prevented for months or years from finalizing a child's adoption. Thanks to horror stories of baby-selling, four states have laws that ban independent adoptions (though exceptions are permitted). Despite this, more than 45,000 adoptions in 1992 were conducted through private agencies or independent agents—the vast majority of them successfully.

My office receives numerous letters from people eager to adopt but frustrated by laws and bureaucrats. One woman recently wrote: "My husband and I decided we would like to adopt a little girl, thinking we had a lot of love, nurturing, and stability to give a child who had been abandoned or abused. Almost immediately I hit a brick wall." Her local department of social services—in a state with more than 5,000 foster children free to be adopted—told her it was "not taking new cases" of families willing to adopt foster children. A couple wrote that of their three adopted children, "two [had] lingered in foster care, one of whom we were not able to adopt until he was age 18."

Adoptable You

There is at least one other mistaken notion that feeds the legal and cultural bias against adoption—the idea that many of the children in foster care are simply not adoptable. My own experience suggests otherwise, as I was an older child when my foster parents adopted me. And my experience with parents in and outside the foster care system tells me that every child is adoptable.

For every child who is ready for a permanent home, there are families waiting. It is time to shatter the myth that adoptive parents are interested only in "healthy white babies." There are waiting lists to adopt white children, black children, Hispanic children, infants and teens, children with Down's syndrome and with AIDS. Private agencies for years have found families for all types of children. Adopt a Special Kid, a California-based service, receives more than 1,500 inquiries annually from families interested in adopting children with disabilities. The National Adoption Center maintains a computerized listing of 650 qualified families waiting to embrace disabled "older" children. The center reports that infants, even the most severely disabled, are adopted almost immediately.

Outside of the thousands of families who have successfully completed home studies and have registered with

with their states, there are no hard figures for the number of parents able and willing to adopt. Certainly there are families who would come forward if public agencies recruited more aggressively. Beginning in November, 1993, Massachusetts stepped up its recruitment efforts with public-service announcements, an aggressive media campaign, adoption "open houses," and community-based recruitment. Such efforts helped increase foster child adoptions by 47 percent in one year.

Most people know someone who has gone to heroic lengths to adopt. Americans adopted more than 7,300 children from other countries in 1993, according to the U.S. Immigration and Naturalization Service. The INS estimates that the 1994 figure exceeds 8,000. Others have spent their life savings to offer permanence to a child; domestic adoption through private agencies or independent attorneys can cost more than $30,000. It is not unusual for foster parents to adopt two, five, or even 10 children under their care. Clearly, the barriers to adoption are neither the characteristics of children who wait nor the parents who want to care for them.

The Route to Foster Care

In addition to the 50,000 children who today are legally free to be adopted, there are hundreds of thousands more who drift for days, months, or years within the state-run system—a system that too often guarantees a parentless future for some of society's most vulnerable members.

Children enter foster care for a variety of reasons. Mom abuses or neglects one of her kids, dad is using drugs or is arrested for a felony, or perhaps the parents are just having a hard time coping with the responsibilities of parenthood. The American Public Welfare Association reports that 70 percent of foster children enter the system because of abuse, neglect, or "parental conditions"—including drug addiction, incarceration, illness, or death. More than 600,000 kids will spend all or part of 1995 in substitute care, up from 434,000 in 1982.

A profile of children in state care belies the stigma that foster children are mostly "unadoptable" troubled teens. Researchers at the Chapin Hall Center for Children at the University of Chicago studied five states whose foster care children make up about half of the U.S. foster care population. They found that from 1990 to 1992, nearly 25 percent of all first admissions to foster care were babies less than one year old. Between 1983 and 1992, the proportion of 12- to 15-year-olds entering substitute care in those states declined. The American Public Welfare Association cites similar trends in national data.

Sadly, the youngest children remain in the system the longest. The University of Chicago study revealed that, after controlling for other factors, children who enter foster care as infants remain in the system 22 percent longer than other young children.

The fact remains, however, that foster care is failing children of all ages. The ACLU reports that one in 10 foster children remains in state care longer than 7.4 years. At least 40,600 foster children have been in care for five years or longer; another 51,300 have been in care between three and five years. System kids, on average, live with three different families, though 10 or more placements is not uncommon. "Every new placement is a loss," says Michael B. Pines, a psychologist specializing in attachment disorders. "The result is that these kids begin not to trust anyone."

Paid to Parent

One of the reasons that foster care tends to ensnare children in a legal and emotional limbo is that its bureaucracy and incentive system attract parents who are unable or unwilling to adopt or help find homes for the children in their care.

Whether adopting through private or public adoption agencies, would-be parents must undergo a home study. Private agencies, which must successfully place children in homes to stay in business, are free to set higher standards for parents than public agencies do. Christian or other faith-based adoption agencies typically emphasize tough standards of behavior. But this is not so for state-run substitute care. In many states, adults who fail the adoption home study get a consolation prize: They can become foster parents. Deemed unworthy to serve as legal adoptive parents, these adults are then paid handsomely to raise children in state care.

Foster homes, group homes, and public orphanages share another vice: Their government money comes with regulations attached. This often guarantees confusion and conflict. Private orphanages always have been driven by a mission: keep girls from getting pregnant, keep children in school, expose children to the Christian faith, and so on. They use a combination of rules and rewards, discipline and love to fulfill their mission. Often, this isn't allowed in a state-run group home, where it may be against the law to hug a child, or to lock the door after midnight, or even to advertise for a married couple to serve as housemasters.

A year in foster care costs taxpayers

$17,500 per child.

Last year, California spent $635 million

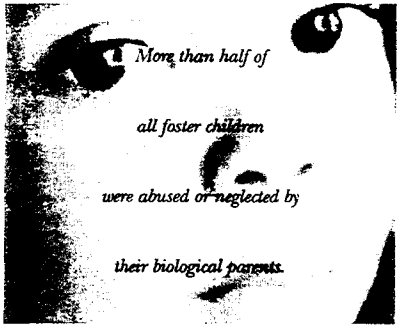
on foster and group home care.

If a permanent, loving family is the surest route to producing happy, well-adjusted children, then what effect does the foster care system, at its worst, have on countless kids? The result of the system's delays, incentive structure, and regulatory grip is that many former foster children ultimately remain dependent on state services. They are wildly over-represented among welfare recipients, the

homeless, and in juvenile and adult prison populations. In Los Angeles County, 39 percent of homeless youth are former foster children. In New York, 23 percent of the homeless were once in foster care; in Minneapolis, the figure is 38 percent. According to the Bureau of Justice Statistics, former foster children make up nearly 14 percent of America's prison population.

Culture of Victimization

The financial disincentives to adoption and the legal and societal biases against it do not exist in a vacuum; they are rooted in the soil of victimization. More than half of the children who enter foster care were abused or neglected in their families of origin. But the current system grants "victim status" to these parents. It often allows them to cling to their parental rights as they move in and out of social service programs. As a result, tens of thousands of



children remain trapped in foster care, never free to be adopted into stable, loving homes.

Take the case of Halie (not her real name), a two-year-old girl who one day wouldn't eat her dinner. Her mother and mother's boyfriend tied her to an electric heater. Hours passed, until Halie's face, chest, and arm were disfigured. Her mother then threw her into a cold shower, dressed her, and took her to a hospital—claiming the child had spilled hot water on herself. After weeks of hospitalization, Halie entered foster care. For the next 10 years, her biological mother—coached by the local department of social services—maintained her legal rights to the child. Case workers helped Halie's mom to toe the official line to prove she somehow was still capable as a parent: She married her boyfriend and had a child with him.

When Halie was 12, her case workers and a judge approved overnight and extended visits between Halie and her biological mother. Halie's mother rejected a judge's offer to regain custody. She didn't want to raise Halie, but didn't want to let her go, and the state gave her all the legal and financial help she needed. Halie spent her teen years in group homes and foster homes. She turned 18 in foster care.

Most states give biological parents every possible chance to prove they are fit—while their babies grow up in state care. A family recently wrote me about their two-year-old foster daughter: "She is precious beyond belief, and her parents are being given chance upon chance to clean up their lives—at her expense, as we see it. She is so adoptable by the right family, but the system will keep her under lock and key for years if necessary for her parents' benefit."

In our social-work schools, counseling centers, and government-funded research, the culture of victimization insists that the most despicable behavior by abusive parents has its causes in economics, racism, broken homes—anything but the consciences and moral choices of men and women. We have devised a foster care system that puts a vogue pop psychology ahead of the well-being of children. This helps explain why roughly a third of all the foster children who are reunited with their families of origin soon return to state care. Indeed, it is the only explanation for some of the bizarre attempts I have seen to reunite a foster child with a parent who is clearly unwilling or unfit.

Under federal law, states cannot obtain federal funds for foster care unless "reasonable efforts" are made to keep members of the family of origin together ("family preservation") or to reunite the family ("family reunification"). But the federal government nowhere defines "reasonable efforts," and only a few states have specific statutes. It's a classic Catch-22: Children are not free to be adopted until every reasonable effort is made to return them to their biological parents. But almost no one seems to know what constitutes a reasonable effort, that is, what services must be offered to parents who need outside help.

When, for example, a public agency reports to a judge that a mother has failed her drug-treatment program, the judge is likely to insist that the mom enter *every* drug treatment program available. So biological parents are given multiple chances to fail at parenting, while children may bounce between state care and their family of origin. The Department of Health and Human Services (HHS) admits that the inability to meet "reasonable efforts" standards is the primary barrier to foster child adoption.

From my own experience in foster care, the most difficult part was watching my brothers and sisters return to biological parents who had burned or beaten them, or put out cigarettes on their children's bottoms. I felt like an accomplice. It must have been hard for my parents, who could do nothing to stop it.

Most foster parents, at one point or another, must relinquish a child to a home situation that is precarious. One foster mother of five years wrote: "I have been seriously reconsidering my position as a foster parent because when we started this it was to try to help these children, and I am finding out that I am not able to do that. The pain and heartbreak of not being able to protect these children is a heavy burden to bear." Until the system is reshaped, it is a burden that every one of us carries.

Assignment: Adoption

It is one thing to tolerate inefficiencies and bureaucratic delays in other areas of public life—public toll

roads, for example. Such inefficiencies don't cost children 18 years of their lives. We do not need another study, or blue-ribbon commission, or congressional subcommittee hearing. When I was four years old, it didn't matter to me that someone was getting a research grant to study the effects of foster care on childhood development. What I wanted was a last name.

I am convinced that there are more parents willing to adopt than there are children ready to be adopted. But the market for adoption is frustrated by the regulatory system now in place. To create a more efficient system, one with incentives to help rather than abandon innocent children, we must get Big Government out of the business of parenting. I do not mean we should create a market in babies. I am not talking about baby-selling. I am talking about serving babies and children by removing the barriers to their enjoyment of stable, loving homes.

Where parts of foster care and adoption are privately run, competition and incentives have led to better outcomes for children. In Michigan, where two-thirds of foster care management is privatized, private providers spend less per child, yet have achieved better social worker-to-child ratios than those of state-run agencies. Adoption is, in fact, the ultimate form of privatization: wresting authority over children's lives from the state and allowing children to be free, to be raised not by government but by parents.

We must reform, state by state, our system of transferring parental rights—from the government, which can never be a parent, to parents who are eager and able to bring these children into their hearts and lives. Congress recently has taken interest in adoption reform by proposing a $5,000 tax credit for adoptive parents. But will that tax credit get children out of foster care more quickly? No. Does it stimulate a market in private adoptions? No. Does it allow independent adoptions in states where they are now outlawed? No.

Tax credits might make adoption a little easier for some parents, but they will not make adoption work. To do that, we need reform at the federal and state levels—bureaucratic reform that will shatter the incentive structure that traps kids in foster care, and legal reform that will free children who already have spent years in substitute care. In Massachusetts, we call it "Assignment: Adoption," a comprehensive plan that our institute is bringing before federal lawmakers and state governors:

Hold states accountable for reporting their progress in finding homes for children in foster care. Here is one federal mandate that states ought to be obliged to take on. Washington should require that states make publicly available, within 30 days of the close of each fiscal year, the following information: (1) the number of foster children in state care; (2) the number of foster children free to be adopted and still in state care, but not in pre-adoptive placements; (3) the number of state-recruited families with completed home studies.

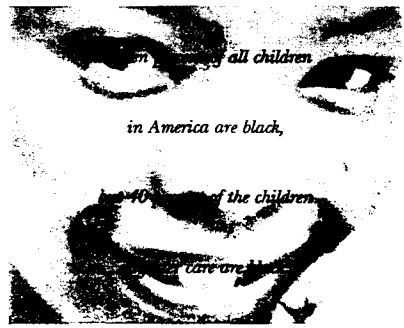
Most conservatives right now wouldn't touch a federal mandate with a 10-foot pole. I would prefer to see an entirely private system that includes a strong charitable element. Until that happens, a few basic requirements on the states are in order. We're talking about giving children a mother and a father. And until we know the depth of the problem in each state, until the number of kids waiting for homes becomes part of our thinking and vocabulary, state agencies are unlikely to change. There are people in our state departments of social services who know these numbers, but we're not hearing them.

Prohibit race-based delays in adoption. Congressional attempts to outlaw race-matching in adoption have yet to free tens of thousands of children of color from foster care. This summer, the U.S. Senate will consider a welfare-reform bill that prohibits race-based delays in adoption. Even if Congress approves the bill, its impact could be minimal.

Recall that the Multiethnic Placement Act of 1994, sponsored by former U.S. Senator Howard Metzenbaum, had a similar goal, but it was watered down. Under guidelines released by HHS in April, the new law allows adoption agencies to consider the child's "cultural, ethnic, and racial background." As reported by the *Washington Post*, the guidelines "stopped far short of requiring that adoption must be colorblind."

It is at this point that the discrepancies between legal precedent, public policy, and social-work practices become painfully clear. The HHS guidelines have not overturned any state laws requiring that race be considered in adoption. And with vaguely written state statutes, case workers will continue to have a lot of power over whether a child will be adopted or languish in long-term "temporary" care.

Suppose every state had adoption policies that were truly colorblind. We at the Institute for Children are challenging governors to remove any and all restrictions to adoption based on race. What would happen if thousands



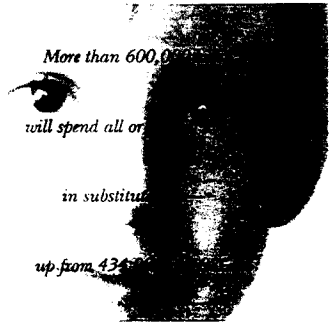
of children of color grew up in white or mixed-race families? It would produce an amazing generation of young people who, instead of growing up without a last name or a permanent home, were raised by loving parents in a diverse, multicultural environment. Why are some black leaders so afraid of that? If their real agenda is the well-being of children, then the evidence is in. Children are infinitely better off in a loving, interracial home than as virtual orphans in foster care.

End government funding that creates incentives to keep children in substitute care for longer than 12 months. Part of the problem is that government money extends indefinitely, with no sanctions enforced against bureaucratic delays. The Adoption Assistance and Child Welfare Act of 1980 required a "permanency plan" for every child within 18 months of entering foster care. This means that case workers decide whether to reunite a child with his family, place him in long-term fostering, an independent living arrangement, a group home, or make him free for adoption. Adoption is the permanency plan for 100,000 foster children, but no one knows how often these plans result in permanent homes for children.

Deadlines for permanency plans come and go, court dates are postponed, files are lost as children are shuffled among foster families. A federal study reveals that children spend, on average, 30 to 42 months in foster care before adoption is even decided on as a permanency plan. Once that happens, the state files a petition to terminate parental rights; the filing can take another six months or more. A report by HHS admits that in some states "children had an official plan of adoption for more than three years, but no petitions had been filed."

The result is that in probably every state there are children who have been in foster care longer than 10 years. Meanwhile, the money to support children in state-run care keeps coming, with no consequences to the state bureaucracies that fail to place children.

Require that states find adoptive homes for children within 30 days after the termination of parental rights. The foster child who is freed for adoption typically has been in the system for at least two years and has had a permanency plan of adoption for at least one year. Yet, as children become legally free to be adopted, states claim to need more time to find families for them! Our institute recommends a 30-day window: If the state does not have a qualified family waiting, one who has met the child and is



ready to proceed with the adoption, then state officials must contract out the adoption process to a private agency. Qualified families exist in large numbers, and private adoption agencies are pretty good at finding them. Three years ago, Michigan launched a carrot-and-stick program with public and private adoption agencies to get kids into permanent homes more quickly. Since then, total adoptions are up, and the number of black children adopted has increased by 121 percent—about 700 kids in the past year alone.

Critics call this baby-selling and claim that government should not act like a business. As someone who has seen the machinery of the state from the inside, I argue that government could promote children's well-being much more effectively if it acted more like a business. I am not alone in noting the failure of foster care management. The director of the ACLU's Children's Rights Project recently wrote, "If the foster care system were considered a business, with its profit-and-loss statements judged in terms of unnecessary human suffering inflicted by mismanaged systems, in terms of misspent dollars, or even in terms of how far these systems depart from their own goals, it would have been forced into bankruptcy long ago."

Getting Kids Out of Limbo

All of the above reforms are aimed at getting the children now eligible for adoption into permanent homes as quickly as possible. But there are more than 600,000 children in foster care at some point during the year. Most of those kids are happily reunited with their parents. Many of them, however, become trapped in the state-run system—children who are never free to be adopted, but who will not or should not return to their biological parents. There are at least three steps every governor could take to rescue these children from the worst effects of foster care and help them find a home:

Make entrance requirements for foster families as stringent as those for adoptive families. In the wake of a wave of child deaths in foster care, people are beginning to speak out about the need to raise the standards for being licensed as a foster parent. As one advocate put it, to be a foster parent "all you need is a clean criminal record and an extra bed." People who have failed an adoption home study can sign up with the state as foster parents. Foster children deserve better than that.

Critics argue that if we raise the requirements for foster families, there won't be enough qualified people to take care of the kids. I have more confidence in the generosity of the American people. I think if you raise the requirements, you'll see more foster parents and better care. Look, for example, at private schools with higher requirements and lower teacher salaries than public schools; they continue to attract excellent teachers and deliver a quality education. By maintaining a separate set of standards for foster parents than those for adoptive parents, we are saying to a half-million kids that it is not important where they spend the most formative years of their lives.

But this is not the only disgrace in foster-parent licensing and training procedures. In state-sponsored training courses, foster parents are admonished, "Do not get too close to your foster children. Do not form a bond." Foster parents are instructed that their main task is to facilitate a child's return to his or her biological parents. From day one, good foster parents are discouraged from adopting.

Certainly there is a stigma attached to being a foster

parent—the system has created it. It is that stigma that discourages many capable and loving people from fostering. If the entrance requirements for fostering were as high as those for adopting, foster children would be better cared for. The anti-adoption establishment wouldn't like it, because it would ruin the standard argument that foster parents are not adequate to adopt.

Allow no more than 12 months for biological parents to prove their fitness to resume custody of their children. This may be the most difficult law to pass at the state level, but it also may be the most desperately needed. State laws can be so vaguely written and so easily assailable that termination of parental rights is always a last resort and can take years of court hearings. There are many in the field who believe it is almost always better to send children back to their natural parents. The Child Welfare League promotes the notion that "no one can truly substitute for the family of origin."

I agree that nature provides every child with two protectors—a man and a woman—and that we're meant to be with our biological parents. But nature didn't design women's bodies to endure crack cocaine; it didn't design children to be shaken until they suffer cerebral hemorrhages. Family preservation doesn't work in these cases because there is nothing left to preserve.

State governors should take the lead in setting tough sanctions against parents who neglect or abuse their kids. By setting a deadline for parents to get their lives together—to get off drugs, get out of jail, find a place to live, and even get a job or go to school—we remind them that they really are responsible for their actions. But the deadline must be final and incontestable; otherwise, irresponsible parents will continue to imprison their children in a labyrinth of legal battles and parentless foster care. The 12-month limit has yet to be adopted by any state and is indeed a radical departure from the years it can now take to legally separate a child from unfit parents.

Allow no more than 30 days from the birth of the child for biological fathers to formalize paternity. The "Baby Jessica" and "Baby Richard" cases have demonstrated the law's allowance for biological fathers who come out of the woodwork to claim their children after they've been adopted. In the now pending "Baby Emily" case, a little girl born in 1992 was soon placed for adoption after the father's rights were terminated for abandonment (he was doing jail time for a rape conviction). But now the father is out of prison and has sued for custody of his daughter. The adoptive family's finances have been completely exhausted as the case awaits adjudication in Florida's supreme court.

Governor William Weld of Massachusetts has sent to the legislature a proposal that, if passed, will prevent such tragic cases in Massachusetts. The proposal requires every unwed biological father to formalize paternity within 30 days of the child's birth, and to maintain contact with the child and provide financial support to the best of his ability—or forfeit his right to contest the child's adoption. Ideally, that would mean no appeals, no hearings, no state officials pulling children out of their adoptive homes. The legislation, if not severely amended, could serve as a model for state reform.

A Life That Matters

A teenage girl—we'll call her Sarah—who worked for our institute last summer was a system kid; she had turned 18 in foster care. This was her first job and she was surprised when she noticed that taxes had been taken out of her paycheck. She asked me what the government would do with her money. In my usual non-partisan spirit, I explained how the federal government would spend the $300 withheld from her summer earnings. She actually started to cry. She looked at me and asked, "Will it go to pay for foster care?" She said it hurt her that she had worked so hard only to help the government keep some other child from being adopted.

After Massachusetts launched

an aggressive pro-adoption campaign,

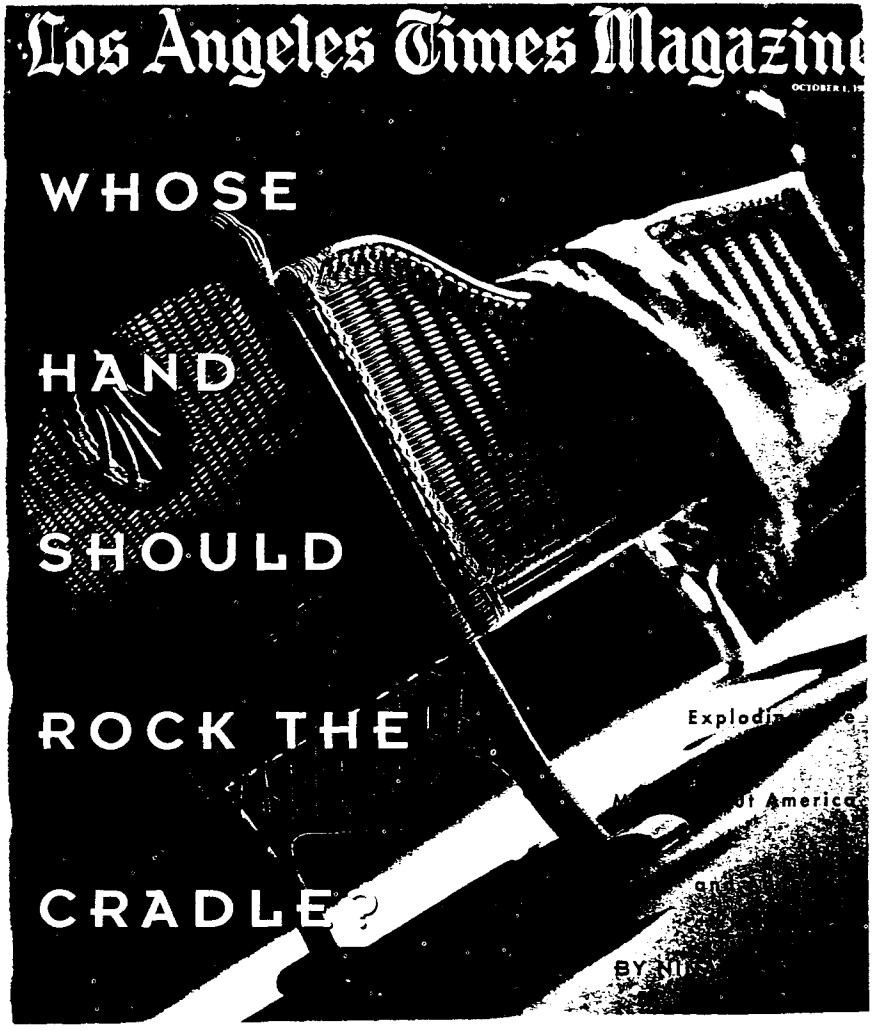
foster child adoptions

increased by 47 percent.

That's what the system is doing to our children. Though my own experience in foster care was a good one, it opened my eyes to the real hardships of countless children. My foster brothers and sisters who might have gone back safely to their families of origin too often and for too long were delayed from doing so. Others lived the saddest stories of rejection—they had been burned, beaten, sodomized or battered, left in a doorway or in a fruit field, but later sent "home" to their abusers. Like foster children everywhere, many who could have been adopted were denied the chance to be loved and cherished by a family who would always be there.

Let's be honest: Adoption is no fairy tale. It is a risk. Kids don't always go home and live happily ever after. But every parentless child knows the alternative: the feeling that there is no one to whom her "case"—that is, her life—really matters.

When parents adopt, they can accomplish something government cannot: They can convince a child she matters. That's what makes adoption such a great gift, an expression of unconditional love and compassion. Don't we, as a society, owe that gift to our children?


Los Angeles Times Magazine
WHOSE
HAND
SHOULD
ROCK THE
CRADLE?

ADOPTION, THE UNDERCLASS AND AMERICA

Five Myths That Keep Us From Placing Abandoned, Unwanted and Abused Children With Families Who Want Them, and How We Can Turn the System Around Before It's Too Late—for the Kids and for the Country.

BY NINA J. EASTON

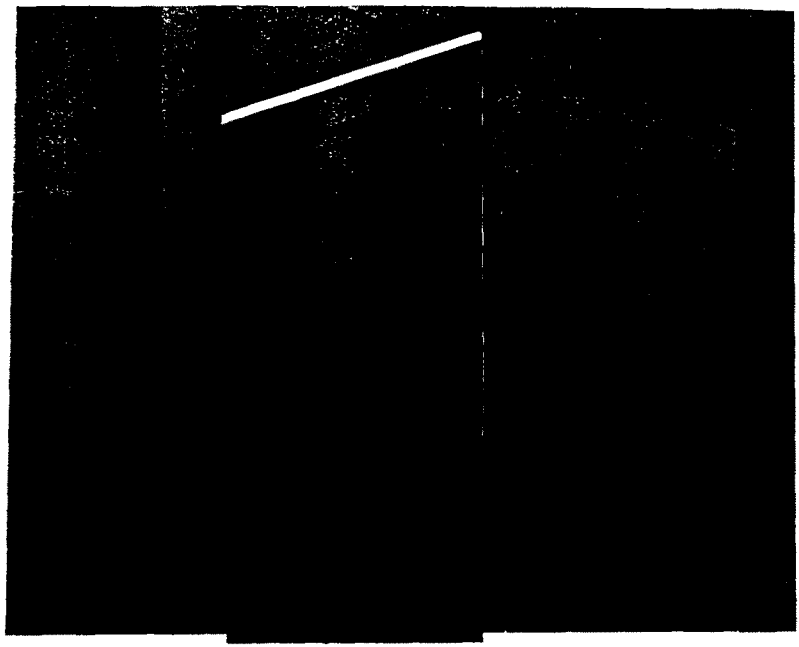
Delicate rhythms of breath wheeze through 4-month-old Shana Newman's* lips as her lungs labor against a summer cold and the circumstances of her birth. Her navy blue dress is all frills and fuss, the sort of stuffy infant-wear that overly doting parents might insist on for their first baby girl. In fact, the tiny body staring up at a mobile of musical teddy bears is an "abandoned infant," the government classification for the thousands of babies left behind each year in maternity wards, with neighbors, on street corners—just a step above the family pet dumped by its owners when it starts scratching the living room furniture.

In 1991, the most recent year data is available, mothers abandoned 12,000 babies in hospitals alone. That same year, another 10,000 newborns, so-called boarder babies, were being warehoused in hospitals because they lacked a functioning parent at home. Authorities found Shana on a Washington street after her mother wandered off on a drug binge. Once her head cleared, the 36-year-old woman noticed that her daughter was missing and called the social services agency.

She must have had the government number handy. Her neglect of her three oldest children had already prompted social workers to move them into foster care. Still, the mother's phone call was fortunate for the nurses and caretakers at St. Anne's Infant and Maternity Home. Now, at least, they know the name and age of the brown-eyed baby they diaper, feed and rock to sleep each night.

Few of the 57 young children housed at St. Anne's, a government-licensed emergency shelter, receive any visitors. A crowd of 10 for Wednesday evening visits is considered a good turnout. Elisabeth Boyle, St. Anne's social services director, holds Shana's thin file on her lap. The children who drift through temporary shelters like this and

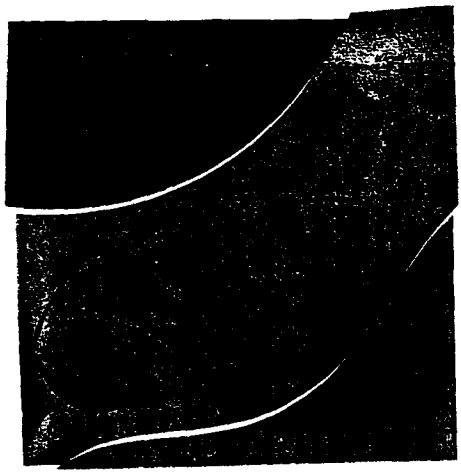
* Because of confidentiality laws, the names of most of the children in this story have been changed.



MYTH #1 Two-thirds of the children in foster care will return home.

into the nation's complex, litigious no-man's-land of child welfare bureaucracies can't claim much in the way of parents or belongings, but they do have files, which bulge and yellow as their days as "system kids" stretch into years. Boyle's face brightens as she peers into the white legal-sized envelope stapled to the inside of Shana's folder and spots a slip of paper. These envelopes, set aside for visitation records, are usually packets of air. "Oh yes," Boyle says, "she's had one visitor." Then her face falls. "The social worker."

Shana's file begins with a record of her life at this complex of nurseries, children's bunks and blacktop playgrounds in Hyattsville, Md., just over the border from the nation's capital. Officially, children sent to this Catholic-run shelter are supposed to stay no longer than 30 days. No one knows better than Sister Josephine, the passionate and blunt nun who runs the place, that infants need the care of parents to thrive. But like every policy connected with the child welfare bureaucracy, one month typically stretches into many. Shana came



trouble has become the anchor of childhood memories for hundreds of thousands of kids. Some 10,000 children spend more than five ye in the system.

Of the 30,000 babies abandoned in American hospitals in 19 only 6% were adopted. Shana Newman's story is typical: She ha better chance of becoming homeless, getting pregnant as a tee dropping out of school, even winding up in prison, than she does getting adopted. A survey of older foster-care youth who left the s tem found that only 54% had finished high school, only 49% we employed and 40% were costing the government money by collec ing welfare checks or prison meals. Sixty percent of the girls had g en birth, and most of them were on welfare.

One national survey found that former foster children are thr times more likely than others to become homeless, and major metr politan areas report that as much as 30% to 40% of their shelter po ulations are system kids. Therapists Gregory C. Keck and Regina K Kupecky, who co-authored the 1995 book "Adopting the Hu Child," liken the abandoned or neglected child to a wild animal: "H learns to survive in ways that do not work within society."

The nation's hulking child welfare system defies an underlying pr cept of modern pediatric thought. Infants and small children requi nurturing and love, consistency and permanency, and a reliable o portunity to bond with a parent or caretaker. Stressful disruptions family life during these early years are like earthquakes that continu to send out aftershocks many years later. Children denied a chance build deep human bonds early in life are likely to have trouble learn ing how to trust others and earning that trust back. They have troub developing empathy for others and setting goals for themselve They have trouble developing a conscience.

But prolonged transience is the defining feature of today's chi welfare system. After four months at St. Anne's, caseworkers tran ferred Shana into a foster home that has no intention of adoptin her. With luck, she'll stay with that family, which is already raising h siblings, until adulthood. More likely, she'll face additional transfer

MYTH #2 There are no babies available for adoption

in May and stayed the summer, cared for during four of the most critical months of her life by three daily shifts of workers and volunteers.

This year, as Shana begins to wind her way through the child welfare system, more than 8,000 American couples and singles will travel overseas, willing to succumb to frustrating and time-consuming whims of foreign adoption agencies, sometimes willing to step into civil wars, often willing to take home a child of a different race or with a troubled health history or both. They've been told there are no babies available here, one of the many myths nourished by the nation's child welfare bureaucracy.

There are few vantage points better than emergency shelters like St. Anne's from which to watch how the nation's underclass is perpetuated and expanded. The nation spends an estimated $10 billion a year on child welfare, on a maze of agencies charged with protecting and rescuing children. What that money buys is a system that promotes homelessness, unemployment, welfare dependency and crime.

Adoption would save the lives of tens of thousands of children now consigned to state custody. That, however, would mean turning the political agendas of most state child welfare bureaucracies on their heads. Fewer than 8% of system kids can look forward to adoptive homes. Liberals who forged today's child welfare policies stubbornly cling to an outdated belief that even the most neglectful and abusive biological parents can be rehabilitated. From the Right, critics in Congress mindlessly slash child welfare funding without assessing how to direct resources to adoptive families that need help raising kids with emotional and medical troubles.

The size of today's lost generation is haunting. Since 1986, the number of system kids living in foster care, group homes or institutions has increased by nearly 60%. If brought together, the 445,000 children in state custody at the end of 1993 would fill up the stands for nearly seven NFL games at the L.A. Memorial Coliseum. What's more, the growth of foster care is fueled largely by the fact that fewer children, particularly African American, are leaving the system. In other words, a temporary stopover for families in either to a relative or to other foster families. The average child in foster care skips through three or four homes; infants remain in the system longer, so they're likely to move around more than the average child. And because Shana is black, her stay in the foster-care system will be twice as long as that of a white child.

Fifteen years ago, a Congress unnerved by the growing number of youngsters consigned to foster care settled on a magnanimous solution: family preservation. Spend government money to "fix" the child's biological family—offer housing, counseling, parenting classes, whatever was needed. Then send the child back home. A compassionate idea and a cheap one at that. Even today, the state and federal dollars spent on family preservation programs are a fraction of the $17,500 yearly cost of taking a child into state custody.

But in the mid-1980s two hitches arose: Crack and skyrocketing rates of out-of-wedlock births. Drugs, particularly the combination of crack cocaine and alcohol, are as lethal to the maternal instinct as they are to the fetus. If judges give parents first, second and third tries at getting off drugs and putting their lives back together, children waste their childhoods being shuttled from one foster home to another.

Most of the children coming into foster care today have drug-addicted parents; often these are single mothers whose relationship with the child's biological father was fleeting. Academics are fond of saying that drug abuse "seriously compromises" a family's chance of reunification. Sister Josephine puts it more bluntly: "For many of these kids, there is no family. There is a mother always living with a different man. The kids take care of mom when she stays stoned."

The factors driving some 200,000 children into the system each year are so complex—sucking into a vortex the worst of America's social pathologies—that even reformers are prone to throw up their hands, insisting that the solution has to start with welfare reform or more jobs or better drug treatment programs. Adoption warrants little more than a nod.

Perceived as a cause of the anti-abortion movement, adoption isn't an issue that generates much enthusiasm within the child welfare establishment. And the views of prospective parents about American adoption are shaped largely by TV's fixation with horror stories of biological parents showing up at c

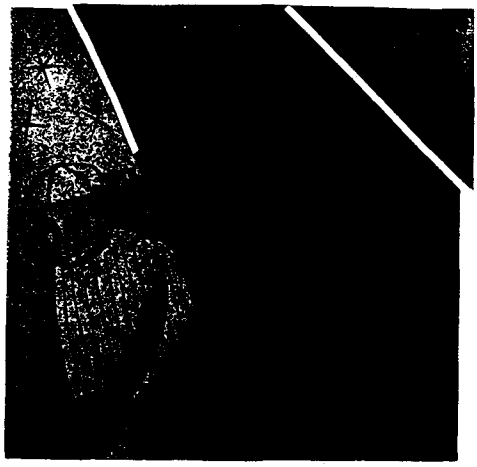
Nina J. Easton, who is based in Washington, is the magazine's staff writer. Her last article was on the Cato Institute, the libertarian think tank. Times researcher Maloy Moore contributed to this story.

doorstep to fetch their children, heart-wrenching as they are, the high-profile Baby Richard and Baby Jessica kinds of cases are rare.

An aggressive national push to find adoptive homes for system kids with little hope of returning home would mean challenging the nation's most tormenting inner conflicts about race and the rights of biological parents. As a rule, public-agency adoptions do not begin as a voluntary process. The biological parents are mothers (usually) whose children were forcibly removed, who must sit in court while lawyers and social workers attempt to prove that they are bad parents, who may be forced to sign legal papers stating that they will never see their children again. There is an overriding compulsion in our society to view these parents, rather than their kids, as victims.

Compounding that discomfiting moral equation is the equally sensitive issue of race. In 1990, for the first time in history, blacks represented the largest portion of children (40%) coming into the system. While firm estimates for more recent years are not yet available, Toshio Tatara, research director at the American Public Welfare Assn., believes that the figure today may be closer to 50%. Any national policy promoting adoption would necessarily result in thousands of black children being placed in white homes—a vision that offends the influential National Association of Black Social Workers, which once likened transracial adoption to cultural "genocide."

The thinking of these social workers—who today bless transracial adoption only as a last resort—may reflect a legitimate concern over the class bias of a system with finances that are based on removing poor children from their homes, notes Eloise Anderson, California's director of the Department of Social Services. The federal government offers states matching foster dollars only for low-income youngsters. "One of the reasons that black organizations are so scared of interracial adoption is that they believe in their hearts that the state aims to get their children to give them to white people," says Anderson, who is nevertheless a critic of race-matching.



MYTH #5 No families want to adopt foster-care children.

But the African American children now trapped in the system are being denied the same principle of equal opportunity that underscores every other aspect of American society. "In no other area of policy do state and state-licensed decision makers use race so systematically as the basis for action," notes Elizabeth Bartholet, a Harvard-based civil rights attorney who has spent years investigating American adoption practices. Bartholet found that not only are children routinely separated into black and white pools but that the black pools are then broken down by the child's skin tone—light, medium, dark—so that a like match can be made with parents.

Even though academic studies conclude that interracial adoptees fare just as well as their counterparts, race-matching proponents claim they are acting in the best interests of black children. As with the family preservation ideologues, their rhetoric has been rendered obsolete by changing times. Black families already adopt at three times the rate of whites; they would need to adopt at 12 times the rate to keep pace with the growing demand for homes. "American white folks go all over the world getting babies," Anderson says. "Why don't we take care of our own at home?"

ADOPTION IS A BACK-BURNER GOAL OF CHILD WELFARE AGENCIES LARGELY BEcause of five myths perpetuated by defenders of the status quo:

• *Myth No. 1: Two-thirds of the children in foster care will return home.*

What defenders of the system fail to add is that as many as half of those children end up back in the system. They were physically or sexually abused again, a drug-addict parent left them alone for days at a time, or a parent couldn't cope and essentially checked their kids into foster care. The federal government's own studies have concluded that 30% to 50% of the children in the foster-care system need permanent homes. As of 1990, 69,000 children had "permanency plans"—meaning that even their caseworkers, who are trained to assume that children will return to their parents, had given up all hope of sending them back to their biological families.

While it's important to be vigilant against overzealous social workers, the numbers suggest that only serious abuse and neglect cases land a child in foster care. Only 14% of the children involved in the 1 million substantiated child-abuse reports last year ended up in foster care, "contradict[ing] the prevailing notion . . . that child welfare workers commonly remove children from their parents," according to a recent child-abuse survey.

• *Myth No. 2: There are no babies available for adoption.*

Defenders of the system repeatedly note that of the 50,000 children now legally available for adoption, only 4% are infants—the children most likely to be snapped up quickly by adoptive parents. In fact, a central reason for the infant shortage is that babies such as Shana typically languish in the system for two to three years before caseworkers take the time and trouble to ask a court to terminate parental rights, paving the legal way for adoption. A federal Department of Health and Human Services study found that even children slated for adoption stay in foster care for 3½ to 3½ years. Jann Heffner, director of the Dave Thomas Foundation for Adoption, stresses that these time periods, so often viewed from an adult perspective, should be understood as "kid days"—eating up precious time from finite childhoods.

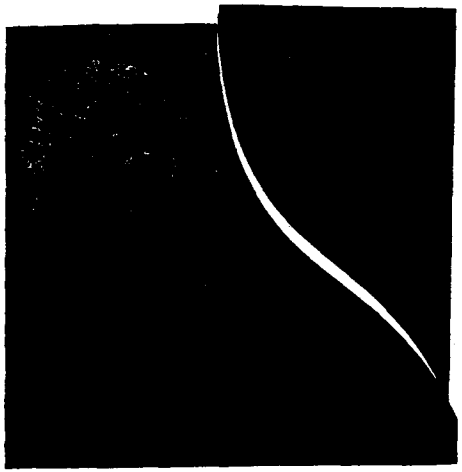
Last year, researchers at the University of Chicago's Chapin Hall Center for Children concluded an exhaustive study of the foster-care systems of five major states, including California. The most striking change in the foster-care populations of those states between 1983 and 1992, the researchers found, has been the number of infants admitted to placement. "Children under the age of 1 are now three times more likely to enter foster care than children in the next year of life." In California, 25% of first admissions to foster care were under age 1; that's nearly 7,300 babies. In New York it was 29%.

The report also found that the median-length stay in foster care was usually much longer for infants—as long as 3½ years in New York. The longer a child stays, the researchers found, the less likely he is to ever leave. In a separate study, Richard P. Barth, director of the Child Welfare Research Center at U.C. Berkeley, examined the records of infants who entered California's system in 1988. After four years, nearly a third of the children were still in state custody.

Among the 85,000 in California's system, the average age of a child at placement has dropped from 10 in 1984 to 6½ in 1993. As in other parts of the country, the main reason that these young children enter the system is no longer physical and sexual abuse but rather neglect by a drug-addicted parent.

• *Myth No. 3: No families want to adopt foster-care children.*

The child welfare system is built on the proposition that most of its young-



optical products.

That's the bad news. The good news is that when U.C. Berkeley Barth conducted a four-year study of California parents adopted foreign-born children, he found the surprising outc These parents were just as pleased with their experience as o adoptive parents and actually reported feeling closer to their than their counterparts. In Keck and Kupecky's book of advice adopting the "hurt child," they write that while early abuse and glect and multiple foster homes "interfere with healthy att ments . . . These children can learn to love and trust adult family setting . . . it is rarely too late for a child to change."

• *Myth No. 3: Most deadlines govern a child's stay in foster care.*

The older the child, the more likelihood of damage—for bro commitments and lost hopes and abuse in every form. The pri rs concern of the clients who go overseas through services like Washington-based Adoption Services Information Agency, says rector Mary Durr, is less race than age. They want babies.

If that's the case, the claim of state child welfare bureaucra that most of their children are unadoptable has become a self- filling prophecy. The schedule for releasing a child for adoptio a leisurely one. Under federal law, a permanency plan must be place for a child within 18 months of entering the system; so states have an even tighter rule. Typically, though, such rules ma h provide a starting point for action. If a child is to be placed adoption, a prolonged process of terminating parents' rights of begins then. The court process drags on with no-shows by attorn or social workers, schedule changes by judges, lost files and a t gle of other legal details.

To make a child legally available for adoption, agency work must track down both the birth mother and birth father and m every "reasonable effort" to reunify the family by getting the p ents off drugs, into counseling and adequate housing—whate they need. In a recent government survey, 75% of child welf workers cited their inability to meet this "reasonable effort" test

MYTH #4 Adoptive parents can't handle kids who emerge from the syste

sters are "unadoptable"—a euphemism for unwanted—children. The diamond-and-arrow diagram on Page 5 of an otherwise bloodless federal report, issued by the Health and Human Services Department's inspector general's office in 1991, manages to spell out a typical child's fate in spine-chilling detail. At three separate points along the way of the interminable, years-long legal process of freeing a child for placement, the caseworker addresses the question: "Is the child adoptable?"

Most state agencies are so convinced that families aren't available for school age or nonwhite children, or groups of siblings, that they lump these youngsters into a category called "special needs"—along with those children who have serious medical conditions. A state-federal subsidy, averaging $350 a month per child, is then offered as an enticement to prospective families.

It's unclear how many prospective parents for system kids are out there because state agencies have demonstrated little imagination in reaching out to them. But when they do—as Massachusetts did when it initiated a recruitment campaign at the urging of the Cambridge, Mass.-based Institute for Children—adoption rates increase dramatically. Twenty-five years ago, about 89,000 American children were adopted each year; now that figure is closer to 50,000, even though an estimated 1 million infertile couples want children.

The National Committee for Adoption estimates that there are 20 prospective adoptive couples per adoptable child in this country. Obviously, most of these parents want healthy babies. But Conna Craig, director of the Institute for Children, has tracked down a number of waiting lists around the country for children with disabilities, to prove her point that adoptive families are available. "I've never seen an unwanted human being," she says. "It just doesn't register with me."

• *Myth No. 4: Adoptive parents can't handle the children who come out of the system.*

It's true that more than 60% of foster-care preschoolers were exposed to drugs before birth, according to a congressional General Accounting Office study. Those with the most lethal combination—crack and alcohol—in their systems move through a rocky infancy of severe crying bouts and tremors; in elementary school they suffer from short attention spans, impulsiveness and often have trouble following directions. Children who have been physically or sexually abused—26% of foster-care children—can have a range of emo-

fore a court as the chief obstacle to freeing children. If, after several mon or even years, the parents still look like poor prospects, the social worker n ically searches for extended family.

Timetables aren't the only problem. California's Anderson echoes oth reformers when says she is "appalled" at the quality of field work she's se in both her state and, earlier, in Wisconsin. "No other industry would bri an employee in and not train them to do business their way," she says. A t tional survey found that more than 50% of caseworkers had no previous perience working with children and families or in human-service agencie

Like many veterans in child welfare, Anderson totters between empat for the drug-addicted parents and concern for their children's future. L many, [redacted] ing a lot of parents get clean [redacted] she says. "Meanwhile, childr are losing their opportunity for permanent homes. Black boys, in particu If you wait beyond infancy, he's lost his chance for permanency. I'm not w ing to risk that while mom gets her act together."

SEVEN FOSTER MOTHERS SQUEEZE AROUND A TOO-SMALL TABLE AT A BAKE Square restaurant north of Chicago as a waitress ferries in iced tea, pecan and chef's salad. This group of women has gathered tonight to share th stories because they broke the cardinal rule of fostering: They fell in l with their children. One by one, they began to adopt the children they h intended to say goodby to—the preschooler who bangs his head so hard a purposely that he needs a special crib top; the 11-year-old who still can't member to look both ways before he crosses the street; the 6-year-old as matic girl on regular medication for her mood swings.

Most of their children have learning and speech delays; some are em tionally disturbed, but others are doing fine. Among the scores of stor about the kids these women have fostered and adopted, there is only o mother who rejected one child: a 9-year-old who set fire to the baseme Judy Berman's voice vibrates with pain as she tries to convince herself t she did the right thing in sending him to a therapeutic home. "I didn't w to take the chance that this child was going to hurt the others," she says. "I not sure I made the right decision."

The women, solidly middle-class and ranging in age from their 30s

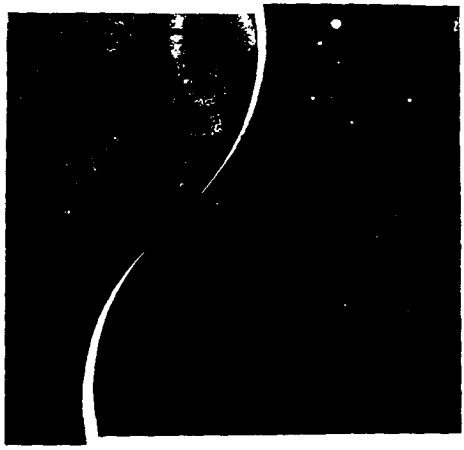
their 60s introduce themselves with tag-lines that capture the polymerous families they have assembled: "Three biologicals, three adopted, one foster," says Shirley Polk. "Six biologicals, five foster, four foster-adopted," says Berman, whose oldest children are grown. About a third of foster parents are also adoptive parents; if anyone understands the obstacles to adoption, these women on the front lines do.

Child welfare systems are under attack almost everywhere; in more than 20 states, agencies are under court order to reform their way of doing business. But Chicago, like no other community, has made child welfare a *cause celebre*. When 3-year-old Joseph Wallace was hung by his mentally ill mother after being returned to her care, the whole nation heard about it. When police walked into the Keystone housing project and found 19 unkempt children alone and uncared-for, network cameras were close behind.

The city's media fixation with the plight of children has prompted some improvement, the women say. New judges who aren't family-preservation ideologues preside over child welfare cases, and they have allocated more court time to clear up backlogs. But those steps amount to holding an umbrella against a hurricane. The quest to adopt children has turned these women's lives into a hazy blur of court dates delayed, phone calls to caseworkers that go unanswered, lengthy legal battles against hastily made decisions to send children back to abusive parents or into shelters because their skin color doesn't match that of their foster parents.

"You have a lawyer bill going all the time when you're in this system," says Berman, a guileless grandmother who pokes fun at her own naivete. "I never thought I'd be going to court and worrying about ACR's [administrative case reviews]. I thought I was just going to be changing diapers and taking care of babies."

Among the women gathered, Terri Voss' adoption of Ricky,



MYTH #5 Strict deadlines govern a child's stay in foster care.

who came to her as an infant, was faster than most: It took "only" 3½ years, largely because Voss had the support of Ricky's birth mother. Social workers sent Ricky into Voss' foster home days after his birth because his mother's live-in boyfriend had already confessed to beating his 8-month-old sister to death when she wouldn't stop crying.

Voss' only snag in adopting Ricky, who is African American, was a caseworker who wanted to remove him from the home and send him to a shelter until a black foster family could be located. That plan was squelched with the support of another caseworker and Ricky's mother. Karen Schroeder took in a Latino baby girl as an infant who had tested positive for a list of 15 drugs. When she was 6 months old, the family was notified that she would be removed, because neither foster parent was Latino. The Schroeders appealed, and the decision was dropped.

Transracial adoptions are governed by a curious patchwork of state laws ranging from guidelines for collecting information on a child's race to mandatory waiting periods to search for same-race families. But the system is less driven by the law than by the political agendas of individual social workers or county agencies—with absurd results. A white California couple adopted their black foster child but were told by a different social worker that adopting his sister was out of the question. Determined that their son should grow up with black siblings, they went to Ethiopia this summer and brought back three youngsters.

A new federal law prohibits such practices as waiting periods to seek a same-race family and requiring caseworkers to justify transracial adoptions. But it does allow caseworkers to use race as a consideration in some cases, prompting critics to charge that the law still gives caseworkers too much leeway to exercise their own biases.

Racial agendas aren't the only obstacle. Biological families, regardless of their abuse or neglect records or tentative connections to their children, still hold the upper hand. Berman raised one little boy for five years with no contact from the birth family and was trying to adopt him. Six months ago, a grandfather showed up to claim custody. Heartbroken, Berman is determined to fight the elderly man, who also wants to take in several other grandchildren, some of whom suffer from behavioral disorders. "It just doesn't seem right that they would move a child who is really happy and adjusted and doing well, whose only hang-up is that every time we go to court he wants to know if today is the day he's going to be adopted," Berman says."

Joe came to Lisa Hannum's home when he was 6 months old; he had untreated burns on his hand, and his thigh bone had been fractured. Someone—the parents claim it was a baby-sitter—had shaken him so hard that doctors had to open his skull to relieve swelling on his brain. "The way the blood was coagulated on the brain, it was clear this was more than one shaking," says Hannum.

But the court ordered Joe back home just before his second birthday. Shortly after that return, the father abandoned the toddler in the back seat of a car late at night as he was fleeing police. Within months, the little boy was back at Hannum's house—a changed child. "Nine months later, I didn't even know him," Hannum says. "He'd sleep outside my door, he'd crawl in bed with me, he was up eight times a night. He's very insecure. Even tonight—he comes to the door and says to me, 'When are you coming home? Is this a short meeting? Is this a long meeting? Are you coming home?' Like I'm going to leave him."

Running through these women's stories is bafflement and amazement toward the chaotic lives and drug-induced disinterest of the mothers who lose their children to the system.

"When I first started, I thought children were taken [from their families] too readily. Now I feel exactly the opposite," says Karen Guidarelli, a foster parent for five years. "You don't see caring parents as much as you'd like to."

"You'd like to see a parent, even in court," interjects Hannum.

"You'd like to see anybody who cares about the kids like crazy," adds Guidarelli.

"You'd like to hear someone say: 'What do I have to do to get this kid back? I'll do anything,'" Polk says. "And then go do it."

DO WE BLAME THE PARENTS? OR THE FORCES OF POVERTY THAT SHAPE THEIR bleak, drug-ridden lives? Those two questions paralyze today's reformers, breaking policy-makers into opposing camps.

If you're Patrick Murphy, Cook County's raw-talking public guardian, a man who attacks family-preservation programs with the same vigor he once em-

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Adoption

Continued from Page 19

braced them, you point fingers at the homes that produce these children. Murphy grabs attention for his cause by reaching for the stories that he knows will set his listener's hair on end: the child returned to abusive parents only to be thrown up against a wall and killed; the 15-year-old "father" who locked himself in a closet with his two infant children so he could perform oral sex on them.

"Just because two people [have sex] and nine months later a baby is born, that doesn't make it a family," Murphy says. "And it doesn't make those kids a mom and dad either. . . . In some cases you should cut that parent's tie the minute the kids walk in the door, and we don't. If some case comes in here where the father or paramour has screwed the kid and the mom has looked the other way, why are we playing around? What are we doing talking about rehabilitation?"

If you're Thomas Wells, a lead reformer of the District of Columbia's system, you point fingers at inept government programs that leave troubled parents in the lurch. "It's easy to hate these families," says Wells, executive director of the district's Commission for Child Welfare. "But as soon as you do, all the laws will be based on taking their kids away from them."

Both sides of this political debate miss the point. Most of the children pouring into the system suffer from severe neglect, not abuse. And you don't have to "hate" these parents to recognize that, in many cases, there is no chance of rehabilitation; recent history suggests that no amount of government spending is going to solve that. Even in cases where the parents can't be saved, their children can.

Here's where to start:

• *Sexual abusers and physical tormentors don't deserve a second chance. Less abusive and neglectful parents do, but that second should be finite.*

If pressed, the courts could immediately terminate parental rights in thousands of cases of severe abuse and neglect without coming near the ones that aren't so clear-cut, where some hope remains that a parent will change. In these gray cases, more of the legal burden should shift from social workers who are trying to meet the "reasonable-efforts" standard, to parents, who should demonstrate that they can rear their children without harming them.

Within hours after a child is removed from a home, family support services need to be offered. As veterans in the field note, this mind-clearing loss provides a short window of opportunity for rehabilitation that may not come around again. The chances of reunification fade the longer a parent and child are separated.

• *Put babies on a fast track.*

The first priority of the system should be to move out the infants and toddlers pouring in, thousands of whom have been abandoned. If the system's defenders insist that their children are too old and too broken to be adopted, they should start by looking for homes for the little ones—for whom there is strong demand—without regard to race. The child welfare lobby worries that this would be unfair to older children in the system. But fairness is a steep price to pay for the lives of tens of thousands of kids who could otherwise be saved.

• *The same sense of urgency that brings a child into the system should guide plans for his departure.*

Policy-makers need to recognize that months lost in an infant's life are critical; so is the year or two lost by a preschooler. A strict "one-year-and-out" policy should guide the nation's child welfare system. Every effort should be made to find a permanent home for a child—with his biological parents or in an adoptive family—within 12 months of entering the system or risk losing federal funding.

• *A less adversarial, less lingering process should underscore reform.*

The process of freeing a child for adoption now rests on a courtroom drama staged to prove a parent is "unfit" But Murphy estimates that 20% to 30% of the parents who lose their children to state custody would embrace adoption if it was presented, outside court, as a noble option in the best interests of the children. Adds Carol Williams, associate commissioner of the children's bureau at HHS, "We are missing an opportunity by assuming it has to be an involuntary proceeding. For some of these moms, if you really sat down and had a conversation about what they can and cannot do, they would voluntarily surrender their kids."

These mothers are not young; they are drug addicts on their third or fourth child who have lost all idealism about child-rearing and realize that they can't cope. The mean age of women at risk of abandoning their infants, for example, is 27.

• *The opportunity for an open adoption should be offered. Birth parents should be involved in choosing the parents who will raise their child.*

Too often, when children are settling into foster homes and about to be adopted, relatives appear out of nowhere—often tracked down by social workers bent on preserving family preservation. Children are not footballs to be handed off at adults' whims.

Paternal registries, which a number of states are experimenting with, would shift the legal burden to the father so that he doesn't have to be tracked down later on—or pose the threat of turning up after an adoption. Wells' proposal that social workers be required to convene a meeting of a child's relatives within 10 days is a good one. If a grandparent, aunt or uncle wants to assume responsibility for raising a child—a growing segment of the foster system called "kinship care"—then the time to make that effort is upfront, not several foster homes down the line. Even children in kinship care move through an average of three placements.

• *Government aid to adoptive parents should be tailored to a child's medical needs, not to his or her age or skin color.*

Great strides have been made in treating drug-exposed children and those who have suffered abuse and neglect. But the Medicaid card that accompanies "special needs" children to their adoptive homes puts only a small dent in the physical therapy, speech therapy, special education and the like that they may require.

As House Republicans attempt to save money by block-granting and cutting adoption subsidy dollars, and as their leader, House Speaker Newt Gingrich, spews the attention-grabbing talk of orphanages, an important opportunity is being missed: The youngest children pouring into the system need homes, not institutions, and prospective parents of these troubled kids need financial help tailored to their medical and special educational needs. They require a far more elaborate system of counseling and therapy to help them through the potentially rough years—particularly adolescence.

UNTIL POLICY-MAKERS START demonstrating the courage to embrace radical change, kiddays for those trapped in the system will continue to stretch into years. The children at St. Anne's are clean and well-fed. There are plenty of toys to play with. The volunteers are sweet and warm. Physical therapists make weekly visits. But as one baby among dozens, a child's cries might have to wait a turn. Some of the toddlers at St. Anne's are so hungry for affection that even when a stranger picks them up, they cling tightly and resist being put down.

With Elisabeth Bade at my side, I walk down the hall that separates the babies' cribs from the banks for the children. A 4-year-old girl comes skipping up between us, grabbing one hand from each so that we'll swing her into the air. "Guess what?" she says. "Tomorrow my mom's gonna visit. And my dad and my sister and my brother."

"No they're not," interjects an older boy who skitters past. "Don't listen to her," he says of his friend. "She's lyin'." ■

USA TODAY

MARCH 14, 1996

Adoptable kids go wanting

Programs in the private sector try to fill void left by public bureaucracy

Recently in Philadelphia, the state-run Department of Human Services went to court to stop a private agency from finding a family for an abandoned infant, "Baby Mitch."

Even though the private agency offered to handle the adoption free of charge, the department claimed that a "motive of profit" prevents private agencies from acting in the best interests of children. Instead of finding a loving family, the department proposed to put "Baby Mitch" in foster care, along with a half-million other American children. A Family Court judge ruled that the baby can be adopted through the private agency.

Commentary
By Conna Craig

You might think that the Department of Human Services would welcome the private sector's help in finding adoptive homes for children. But more often than not, state agencies act as a barrier between good families eager to adopt and the children who desperately need them.

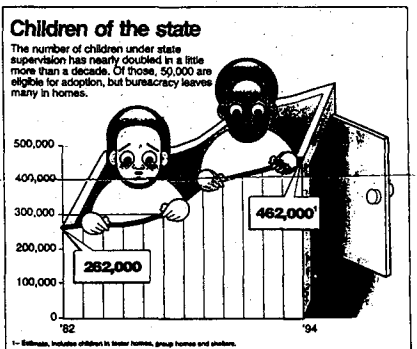
Today, 50,000 foster children — based on a study by The Institute for Children of 48 states so far — are waiting for what most people take for granted: a loving family and a permanent home. They are legally free to be adopted; their biological parents have lost or relinquished parental rights. In 1992, the most recent figures available, less than 20,000 of these children were adopted. They will wait, on average, between three and five years for a family. The American Public Welfare Association states that between 1983 and 1990, on average, 15,000 foster children "aged out" of the system each year; thousands of 18-year-olds are left to navigate early adulthood with no permanent family. The American Civil Liberties Union states that 40% of all former foster children end up on welfare.

Meanwhile, qualified families wait to adopt children of all racial backgrounds and ages, children with disabilities, even children with AIDS. But states — which receive a federal subsidy for every day a child is in foster care — can't seem to find adoptive homes for these children. State bureaucrats say that finding good families is next to impossible. They say they need more money.

That's nonsense. Two adoptive dads in a garage in Virginia prove that where there's a will, there's a way. With a mission of increasing the rate of adoption, Chris Moore and Phil Schulte teamed up to create AdoptioNetwork, a massive database which they built and have maintained on the World Wide Web since 1994 for less than $1,000. AdoptioNetwork is a privately funded, volunteer-operated service that provides immediate access to adoption resources — including listings of more than 2,500 adoption agencies — to the 15 million people who use the Internet. Moore and Schulte gathered information that was previously "locked up in institutions" and have made it available free of charge. Says Schulte, "Our mission is to serve the adoption community. We've created a structure that is user-based rather than institution-based." Adds Moore, "It's a lot more cost effective and easier for someone to go to a library and use a computer than to make a dozen calls to government agencies."

Every month, 5,000 people visit the AdoptioNetwork site at http://www.adoption.org/adopt.

State agencies claim that some children are "unadoptable." Bureaucrats contend that only a small percentage of the 50,000 are healthy, white babies — supposedly the only children sought for adoption. Instead of adoptive homes, states offer teen-agers a program called Independent Living. Katie, a 16-year-old foster-care veteran, sums up her experience this way: "All I ever wanted was to be adopted. Instead, the people at the group home taught me how to apply for welfare. To me, that doesn't mean living independently."



In contrast to state agencies that bemoan a shortage of adoptive homes, Pat O'Brien, founder of You Gotta Believe!, a private agency that places teens for adoption, insists that the families are out there. O'Brien's agency doesn't have the money to advertise, so he "works the streets" of Coney Island, spreading the word about You Gotta Believe!'s eight-week "A-OK" (Adopting Older Kids) Parent Preparation course. O'Brien and his all-volunteer staff take the "field of dreams" approach. "We build the training for adoptive families, and people come. Seventy-five percent of the effort is you just gotta believe the families are there."

You Gotta Believe!'s mission is homelessness prevention. While New York and other states offer 14-year-olds in foster care the option of signing away their wish to be adopted in favor of "Independent living," O'Brien warns that many of these children will be abandoned by the system at age 18 or 19. "Independent Living means no one tries to find families for these kids," he says. "To a foster kid, Independent Living means 'I'm homeless at 19.'" This year, New York City will discharge 4,000 foster teens for whom the system has found no permanent homes. New York's Coalition for the Homeless reports that 60% of the homeless in the city's municipal shelters are former foster children.

Private agencies are finding families that states say don't exist. Jim Jenkins co-founded the Children with AIDS Project of America, a private, volunteer organization that has recruited more than 1,000 families to adopt children who are HIV-positive or AIDS orphans. The project, which started eight years ago on Jenkins' kitchen table, recruits families and locates children via hospitals and adoption agencies. Jenkins says there is no shortage of interest in adopting the children some states would call "unadoptable." Annually, more than 2,000 people who want to adopt children affected by AIDS contact the project. Jenkins, himself an adoptive father of two children who were born HIV-positive, has been called on by organizations in eight countries for help in creating similar projects.

Private groups are stepping forward to save the children. In its upcoming report, "Private Approaches to Foster Care and Adoption," published by the Reason Foundation, the Institute for Children profiles private-sector methods of making adoption work.

I know, firsthand, the anguish of waiting years for a state bureaucracy to finalize an adoption. I was a foster child in a family that raised 110 children. I was one of the lucky few — I got out of the system after eight years. My foster family adopted me and gave me what I had always wanted: a last name.

If state-run agencies cannot find families for 50,000 children, they should step aside and make room for the people who can. Private groups like AdoptioNetwork and You Gotta Believe! and people like Jim Jenkins are showing that America is ready and willing to adopt every child who waits. In the "Baby Mitch" case, Philadelphia's Family Court Judge Esther Sylvester characterized her decision as a "wake-up call" to the Department of Human Services. For the sake of the 50,000 waiting children, this wake-up call cannot come any too soon.

Conna Craig is president of the Institute for Children, a private, nonprofit group based in Cambridge, Mass.

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Family Foster Care Placement: The Child's Perspective

By Penny Ruff Johnson
Carol Yoken and
Ron Voss

This study of the impact of family foster care placement as seen by a number of children ages 11 to 14 found that, although placement caused severe disruption for the children because of the necessity of blending into new neighborhoods, schools, and of making new friends, the children described their lives and circumstances positively for the most part. They had much to say, however, about improving the experience they underwent, about contact with their own families, and about improving family foster care for children and families generally.

Child welfare policymakers and practitioners continue to debate the relative merits of family foster care placement and in-home services as appropriate responses for state and local authorities trying to protect children who are victims of abuse and neglect. This study gives voice to the opinions of those most affected by the outcome of the debate — the children themselves. It examines the impact of the removal of a child from the home of the biological parent and the consequences of this decision from the perspective of the child. The study focuses on the children's understanding of the circumstances surrounding placements; the reasons for changes in placements; the impact of changes in school, friends, and neighborhood; the importance of the caseworker to the child; the children's thoughts about the future; the children's views of the state as an entity; and the use of family foster care as an intervention.

Background

The enactment of P.L. 96-272, the *federal* Adoption Assistance and Child Welfare Act of 1980, contributed to the debate of the merits between in-home care and family foster care by underscoring the importance of the biological family to children. It requires child welfare workers to make reasonable efforts to prevent the placement of children and to facilitate the return home of children needing placement. Efforts to prevent placement have been implemented by means of intensive family preservation service interventions. Keeping children in the biological home avoids both the monetary and the emotional costs of removing a child *from home, but increases the possibility* of continued harm to the child. Understanding how to weigh the costs of each strategy — in-home services or placement — is critical because of the considerable risks of serious injury to children in deciding not to remove them from their homes.

Current research in out-of-home care assesses children's development and well-being in care by comparing indicators of growth and development, such as the child's academic performance, and by examining the functioning of children formerly in care. Studies of children in out-of-home care have found that their academic performance is below grade level and that they suffer from low self-esteem [Barth 1988; *Fanshel & Shinn* 1978; *Gil & Bogart* 1982; Hicks & Nixon 1989; Rest & Watson 1984; Wald et al, 1988; Weinstein 1960]. It is not known, however, whether these problems are associated with placement in care or with the circumstances present at the time of placement, such as poverty, family conflict, or child abuse and neglect. Findings from postplacement studies suggest that, on the whole, children formerly in care function adequately as adults and are satisfied with primary relationships in their lives [Festinger 1983; Lauder 1986; Maluccio 1985; Meier 1965; Rest & Watson 1984].

Research studies involving the assessment of care by the children themselves are few, and most tend to be retrospective. A number of postplacement studies have included interviews with children formerly in care about their out-of-home care experiences [Barth 1988; Festinger 1983; Meier 1965; Poulin 1985; Rest & Watson 1984; Triseliotis 1984; Van Der Waals 1960]. Though such postplacement interviews portray out-of-home care as largely benign, studies of this kind offer data filtered by time and memory. The present study captures the feelings and attitudes of children in family foster care [redacted] experiences and offers an opportunity for examining the immediate costs and benefits of placement to the child. Such research will provide policymakers, practitioners, and planners with valuable information about family foster care from the child's perspective and can lead to substantial improvements in family foster care practice. The children themselves have much to teach us about those aspects of our family foster care system that are working well for them and their families and those that need modification.

Study Design and Methodology

Research Plan

This study is based on interviews with children who had come to the attention of a large public child protective services organization in Illinois and who were subsequently placed in family foster homes mainly because of serious abuse and neglect. The children had been placed in homes supervised either directly by the state or by private agencies under contract with the state. Children in both types of homes were included in the sample.

A semistructured interview consisting of precoded and open-ended questions was used. The interviews, which lasted 90 minutes, were conducted by four social work students from the University of Chicago School of Social Service Administration, all of whom had some experience interviewing and working with children. Interviewers were selected for their ability to establish quick rapport with children and were trained for this project. Interviews were taped, with the consent of the children. Within several days, interviewers completed the instrument by listening to the tape and recording verbatim the children's responses to open-ended questions.

The children, foster families, biological parents, and caseworkers were notified of the project by letter. Consent for participation in the study was obtained from biological parents, the children, and their caseworkers. A phone call was made to the foster home by the interviewer to review the purpose of the project and to request the cooperation of the child and foster parents. Four children refused to be interviewed and one foster parent would not allow the child to be interviewed. This foster parent was concerned about the effects of the interview on the child, who was having a difficult time adjusting to the placement.

Most children were interviewed in private, usually in their foster homes. Because of a lack of privacy in the foster home, one interview was conducted on the front porch of the foster home and another was held in the interviewer's car. At the request of the foster parents, four interviews were held outside the foster home — three in social service agencies and one in a restaurant. Most children became involved in the interviews quickly and seemed to enjoy being asked their opinions about their lives.

Sample Description

[redacted] geneous sample of youths in family foster care was sought. The children selected were between the ages of 11 and 14 years and had been living in family foster care in Cook County for between six months and two years. It was thought that this age group contained the youngest children having the cognitive and communicative skills to reflect on and describe their experiences.

A sample of 95 children was drawn. Fifty-one of these children were randomly selected from state foster homes; the remaining 44 came from six large private agencies. Of the 95 children selected, 59 were interviewed — 25 from private agencies and 34 from state family foster homes. Thirty-six children were dropped from the sample — 16 because they had moved out of family foster care by the time of the interview, mainly to return home, and the other 20 because the biological parent (3), the child (4), or the foster parent (1) refused to consent to the interview; because the child's handicaps prohibited an interview (3); because the child had been in family foster care for more than two years (4); or for clinical reasons (4). One child was excluded because she spoke only Spanish, and we did not have a Spanish-speaking interviewer.

The median age of the children interviewed was 12 years. Thirty were male and 29 female. There were 43 African American children (73%), nine Caucasian children (15%), and seven Hispanic children (12%). These racial proportions closely match the total population of children who fit the sample description. Of the total population, 73% were African American, 18% were Caucasian, 8% were Hispanic, and 1% were of other races. Seven children came directly into their present family foster homes and had had no other placements; nine children had had only one previous placement. At the other extreme, 11 children had three to four previous placements, and eight children had more than four. The median was 2.5 placements prior to living in the current home.

Research Findings

The findings present facts and opinions as they were given by the children interviewed. Throughout the report, children's quotations are reported to represent the feelings and perceptions of children in the sample. Because this research is concerned with the impact of family foster care placement as children experience it, no effort has been made to verify the accuracy of the children's responses.

Circumstances Surrounding Placement

Most children were able to identify a precipitant of their placements in family foster care, although for at least 40%, the circumstances were confusing. Nineteen children said that their placements were the result of abuse or neglect, and six children ascribed the problems to the mental illness or substance abuse of their parents. Ten children identified more than one problem [redacted] know why they entered family foster care (10 children) or their responses suggested some confusion over the events that led to placement. One child said, "We got evicted from where we were living or something happened to my sisters." Another child thought the placement was his fault because he wasn't attending school.

For almost two-thirds of the children these problems were not new. About half reported that other attempts at helping with family problems had been made by relatives (16), caseworkers (6), and friends (2). Most children reported that these efforts were thwarted because their parents either ignored them or were unable to accept help.

Reasons For Changes In Placements

Very few children indicated that they were active participants in the decision to move. Over half (58%) of the children who had been previously placed said that they had little or no involvement (three and 31 children, respectively) in the decision to move. Only 16 children reported that they were at least somewhat involved in these decisions. Children attributed responsibility for the decisions to caseworkers (15 children), foster parents (eight children), or relatives (five children). Ten children didn't know how the decision had been made.

Though many children felt that they had been given little consideration in the selection of the foster homes in which they lived, most seemed to be trying very hard to make these placements work. Over three-fourths of the children said that they tried hard to get along in the foster home. Similarly, all but seven children felt that their foster parents were trying hard to help them fit into the foster home. Forty-

three children (73%) reported getting along well with their foster parents.

Problems In Current Placement

Not many children reported having serious problems in the foster home. The ten children who complained of problems mainly described aspects of the foster home to which they were having difficulty adjusting. One child noted that the foster family had a dog, which made him uncomfortable. Other problems resulted from foster parents' disapproval of some aspect of the child's behavior. One child complained that the foster parent did not like his staying out late, and another child accused his foster father of not wanting him to grow up. "Bob can only take so much; then he gets hot. He wants me to stay young." Most of these were fairly common adolescent complaints, but a couple of the children reported more serious threats to the placement. One child mentioned the foster parents' rejection of her when she became pregnant.

Changes In Child's Life

The placement of a child in foster care brings about enormous changes in a child's life. Although placements that permit some continuity with the child's previous life are desirable, seldom were the children able to continue in the same schools or maintain contacts with neighbors and friends.

Friends and neighborhood. Given the importance of peers at this stage in a child's development, the disruption of friendships can be particularly troublesome. Eighty-five percent of the children (50) had different friends in their new homes. Sixty-six percent of the children (39) reported that they had occasional contacts with old friends. Over one-third of the children identified friends as the persons they miss most from their previous lives. In spite of the disruption in friendships, half said that the children in the new neighborhoods were friendlier and easier to get to know than were the children from their old neighborhoods.

All but three children were living in different neighborhoods. Fifty-six percent of the children (33) said that their foster home neighborhoods were better, mainly because of improved physical surroundings or because the people were friendlier and there were fewer fights. Seven children said that their foster home neighborhoods were worse.

School. Only four children had remained in the school they had attended before placement. Almost half (48%) of the children said that their new schools were better than the previous schools, but one-quarter of the children thought the new schools were worse. Those who thought the schools were better said that the teachers were better, nicer, and more helpful; that students were nicer; that there were fewer drugs and fights; or that the school offered better instruction and more activities. The other 15 children (25%) said that the new school was much the same as the old.

Slightly over half of the children reported that changing schools was difficult; most found it hard to make new friends and get acquainted with new teachers. Despite the difficulties of the transition, many children seem to have become highly involved in their schools. Almost half participated in recreational activities or clubs at school, including sports, student government, safety, and academic special-interest groups.

Other changes. About half of the children identified other ways in which their lives had changed since they came into foster care. Almost all of the changes were described as positive. Several children mentioned that they were treated better. "My foster mother tells me what's wrong. She doesn't blow up [like my parents do]." Others commented on improvements in the quality of their lives since coming into foster care. "The food is good here. I get more money, more babysitting jobs." "My whole life-style is changed. Everything is better."

Coping With Separation From Own Family

All but three children described missing their families; 56% reported that they miss their parents most of the time. Almost all children had advice to give their biological parents about family foster care and wanted to describe to them what it's like for them to be in a family foster home. The most common piece of advice was that parents should treat their children well, take care of them, love them, and not abuse them. "A child needs someone to raise them, someone to take care of them."

Children were also interested in telling their parents to "stay in contact" and visit them, because "children need to know them and parents need to know what the child's life is like in the foster home." Others thought parents should do what the state tells them to do in order to get their children back: One child cautioned his parent, "Don't get in trouble or get hurt. Don't talk to strangers. Don't take drugs."

Thoughts About Returning Home

Slightly over one-third of the children were worried about returning home. Most of these children worried that the problems of the past would recur. About one-third of the children, who wanted to live with their parents, were worried that they might not be able to leave the foster home. A few children worried about what the next foster home would be like.

All but 15 children said that their families needed something before they could return home. About half of these children said their families needed jobs, housing, furniture, money, and other physical possessions; another quarter identified counseling as most needed. The other children felt that their families needed several things, frequently a combination of material possessions and some improvement in character or temperament. "My mother needs a house with more room and she needs to get her act together and learn to control her temper." Or, more generally, "My mother could straighten up, could live with my father; they could get along and then we can be a family again."

The children's ideas about who was responsible for their return suggested that many are aware that their return home depends upon factors over which they have little control. For 56% (33 children) their return was contingent upon some change in their parents' behavior or circumstances. Two said their parents were mentally ill. Another eight children blamed the court or the state for preventing their immediate return, and four children said that they themselves were the cause of their failure to return. Two of these children claimed they didn't want to return home. The other 12 children either didn't know or refused to say what was keeping them from returning home now. Two children were returning home soon.

The Importance Of The Caseworker To The Child

Almost all of the children (50) said that their caseworkers were important to them, mainly because they helped arrange visits with the children's own families and because caseworkers helped children and their families. Some children said that caseworkers were important because they spent time with children in family foster care and cared about them. All but six children thought their caseworkers had been helpful to them, particularly with problems concerning friends or school (22%). For some, the help was significant. "She can save my life. She saved my life by taking me out of my real home. I would have gotten killed there."

Children offered a range of advice about what a caseworker should know to help children in family foster care. They suggested it would help if the caseworker knew about the child's biological family and why the child was in family foster care (38%), and about the foster home and the child's treatment there (36%). Other suggestions were more fundamental: caseworkers should know how to talk to children about problems and how to listen, should be on time for visits, and should schedule visits with parents. Several children said simply that the caseworker should know how to take care of kids. One child summarized, "She should know the rules, know how to take care of foster kids, give them vouchers, do what her boss tells her; and kids should do everything she tells them."

Children's Views On State Intervention

Thirty-four children (56%) thought it was a good idea to remove children from their homes, mainly because they believed that the intervention of the state might prevent more abuse and help the family. Several children expressed mixed emotions: the children missed their own families, even though their foster families treated them like family members. "We have birthday parties, presents at Christms, food, a nice house, snacks, own bedrooms, own clothes, but you miss your sister and brother."

Seventeen children thought children should not be removed from their homes because "kids like to be with their own parents." These children stressed that problems are family business and not the business of the state. "Sometimes it's not their business. It's probable they can solve the problem themselves. They may not need all that help." A number of children claimed that the problems were really not that bad or that the presence of the state could make the situation worse.

Children offered a variety of alternative suggestions for dealing with problems. Eight children thought they could have stayed with relatives and six believed they should have stayed at home. Five children thought the abuser should have been removed instead of them, and three said that the family could have made changes before the child was removed. "When they took us away, they shouldn't have stepped in. They should step in when people are having problems."

Other suggestions dealt with the circumstances of removal from home. The events surrounding removal were frequently dramatic, and the children had strong reactions to them. At least one-quarter of the children were taken from school and placed immediately, often with the police present. Several children expressed embarrassment and anger at being taken from school. One child said, "The police should have waited until I got out of school." Another reported that three caseworkers and the police came to his home and took the children to a foster home.

Several other children felt that they had not been given an explanation for being removed from their homes or that they had been misled by the information that was provided. "They shouldn't have told us [only] ten days. Or [they should] let us go home and get our stuff. Or at least not take us away without our parents knowing. It seemed like we were going to jail."

In spite of suggestions for possible alternatives to placement, nearly half of the children admitted that the problems would have gotten worse or stayed the same had their removal not taken place. One child threatened, "Somebody would've gotten hurt — my mother or Harry. I would have hurt one of them." Only seven children thought things would have gotten better without the intervention of the state. Two of these children said they would have helped to improve the situation at home. One child said in reference to his mother's drinking, "Maybe she would have stopped that stuff. I would have stopped her. I would have poured that stuff out."

From the perspective of the children, there was little difference between the services provided by private agencies and the services provided by the public agency. While children in private agency care were slightly more involved in placement decision-making and had more frequent contact with their workers, children in public agency care had more stability in their placements and in their relationships with their workers.

Children's Views About The Use Of Foster Care As An Intervention

Although there was little consensus about the benefits of family foster care, 35 children (60%) felt it was sometimes good for a child to be in family foster care. The reasons given often concerned the improvements in caregiving and the safety found in the family foster home. "There is no abuse or hitting in the foster home." "Foster parents are home and provide food and care." "The foster home is in a nicer neighborhood, with a better school."

The children had many thoughts about what kinds of people make good and bad foster parents. Almost two-thirds of the children described a good foster parent as "a person who likes kids, cares, listens, and understands." Many children added that "a good foster parent can teach right from wrong, should treat kids fairly, not play favorites or have a bad attitude and jump on you before listening." One child described a "good" foster parent

.....(Continued On Next Page).....

as "a nice person with a good clean house, where you can have company, rest, do what you want — like you can go to the refrigerator when you want to — and where you can feel comfortable." "Bad" foster parents were described as persons who are "mean and do not care" or "someone who yells and hits." A few thought that people who were strict, stingy, and give few privileges would make bad foster parents.*

The children offered some advice to foster parents about foster children. They thought it important for foster parents to know something about the child's history and why he or she came into foster care. Others wanted foster parents to know about the child's personality, what the child likes and does not like, what hurts the child's feelings, and how to help the child. Some children simply said that foster parents should know how to take care of children and know the "rules" of being a foster parent.

Conclusion

The children's descriptions of life in family foster care are only part of the answer to the question of which alternative carries the least cost to the child. For a few of the children, placement seemed to be the only answer since the consequences of remaining at home were enormous. They were worried about being seriously hurt or "killed" had they not been removed from their homes. For other children, the alternative of choice was not as clear-cut. Thirty-four children thought it was a good idea to remove children from their biological homes because state intervention might prevent further abuse and help the family, yet all but 13 children suggested ways in which the problem could have been handled differently.

Over half of the children with alternative suggestions for change commented not on whether placement was necessary, but on the circumstances of placement. Suggestions involved reducing the upheaval and trauma associated with the events surrounding removal from their homes. They had little understanding of the rationale for removal, or information about what to expect in the immediate or long-term future. The children's suggestions for changes in foster care were mainly directed at improving the quality of information made available to children about the circumstances of the placement. Actions taken in the interest of protection were often confusing, frightening, and dehumanizing.

In all, the children's suggestions for changes in foster care had to do with keeping foster children informed about major events affecting their lives, reducing the upheaval and trauma associated with the events surrounding removal from their homes, and increasing information and contact among children, biological parents, foster parents, and workers. They thought that children, foster parents, own parents, and caseworkers ought to be better informed about the circumstances of the child's past, present, and future life; caseworkers and foster parents should have a better understanding of the circumstances that led to the child's placement, and of the child's worries and problems; own parents should know that their children miss them greatly, and also what is going on with their children in the family foster home; and children in care should know more about what is being planned for them by the adults.

Although the question of whether the benefits of maintaining children in their own homes outweigh the risks of serious harm remains open to debate, the results of this study suggest that many children view placement in family foster care positively. We know from these children that family foster care in many instances represents an improvement in their lives. The children miss their families and would prefer not to need care away from home; yet they indicated that placement in family foster care had helped them by interrupting the cycle of abuse or neglect and by providing the child protection and some respite while parents worked on their problems. Their suggestions for reducing the cost of placement in family foster care were aimed at improving the circumstances of placement rather than on alternatives to placement.

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* Two children mentioned foster parent abuse of children as a problem of living in a family foster home. Explanation of these references to abuse revealed that the children were talking about abuse that had occurred in former family foster homes, not in their present homes.

– CHILD WELFARE Vol. LXXIV, 4

A Challenge For Mississippi's Adults — Special Children Need Families

Have you ever considered expanding your family circle to include a child who cannot live with his own family? Do you have room in your heart for a child who is broken and wounded? Have you weathered your own battles in life, and do you feel as if you have certain gifts now to offer others who are suffering?

If you answered "yes" to any of the questions above, then please consider this next question.

Could you welcome a child with special emotional needs into your home and family?

This all-important question is one that we at the United Methodist Ministry With Children and Families ask people on a regular basis. Our mission in this ministry is to find committed, stable, loving families for special foster children who are in desperate need of appropriate alternative family environments.

It is a constant challenge, for there are so many children who need our help. In 1994, the Mississippi Department of Human Services received 17,322 reports of suspected child abuse and neglect. 1,629 cases of abuse were substantiated and 2,024 cases of neglect were substantiated. Mississippi ranked second nationally in increase of child abuse and neglect reporting over the past decade according to Child Welfare League of America findings. This is a 298% increase.

For these young people, and others like them who will be taken into state custody in the next year, appropriate placements must be found because many of them are victims of abuse and neglect in their own homes.

What is meant by the term "appropriate placements"?

Foster children have special needs. Therefore, a continuum of care must be available. Some children and youth are so disturbed that they require acute psychiatric care in a hospital setting. Others can be helped in a treatment group home environment, like the ones opened to youth in Natchez and Columbus by the United Methodist Ministry With Children and Families. Many can live successfully in a campus setting, much like the ones provided by the Baptist Children's Village, Sunnybrook Children's Home and the Natchez Children's Home.

However, there are large numbers of children and youth who benefit from treatment in a less restrictive, more individualized setting, such as a foster family home. Children and youth who successfully complete other programs of care sometimes still cannot return home to be reunited with birth families for various reasons. However, they can live successfully in a less restrictive foster family home. Such homes are needed throughout the state of Mississippi. Many referrals received for abused and neglected children needing foster home care, are from areas covering the entire state of Mississippi.

Can a foster family deliver treatment/therapeutic care? Yes, they most definitely can!!

A child who has been neglected and/or abused, whether emotionally, physically or sexually, needs a strong family support system more than anything else. This type of child needs a family that will not let him down. He needs to learn about appropriate love and discipline from good role models in a family environment. A foster family is the basis for treatment of many abused and neglected children.

Many people ask, "How would I know how to treat a foster child in my home?"

At the United Methodist Ministry With Children and Families, we take great care to prepare our foster parents, as well as their birth children, for life as a foster family before we place a child in their home. During the application and licensure process, foster parents receive special training that give them the tools and methods needed to effectively handle specific behaviors and situations.

Once a child is placed in the foster home, the foster parent becomes part of a treatment team, along with our staff and others who are significantly involved in the child's life. A treatment team could typically consist of the child's birth parents, a teacher, a therapist and a medical doctor, in addition to our agency staff and the foster parents. The team works together to develop a treatment plan for each child.

This team work is what ultimately helps the foster parents to be successful in helping the child, along with the continued support and assistance they receive from our staff. The foster parents are never alone in this challenge. They receive continuing education, supervision and consultation throughout their term of service. Our staff members are in their homes frequently to provide this assistance and support and are available to foster parents 24 hours a day.

Due to violence, crime and societal problems in general, many people are hesitant to take a child into their home for fear the child will be violent, assaultive and uncontrollable. Children and youth with severe problems that would cause injury to themselves or others, or those who have serious destructive or uncontrollable behaviors are not appropriate candidates for foster home care. These are the children who require a more restrictive, acute-care environment.

Therefore, the United Methodist Ministry With Children and Families wishes to dispel any fear that people may have regarding the types of children and youth they would be asked to serve. The children and youth we serve through our foster home program do have emotional problems and some inappropriate behaviors due to the traumas they have experienced, but they are children and youth who are controllable and teachable and who can be helped effectively. Foster parents are not expected to take a child whom they feel will not be able to adjust to their family environment and routine.

Foster parents have lots of input in to which child comes into their home. Their preference of age and sex is always respected. A network of foster families throughout Mississippi would provide a continuum of care for special needs children which is imperative in helping a child progress to the point of becoming successful in his environment, whether it be in his birth home, a foster home, at school, at church or in his community in general. What a wonderful way for people to give back to their communities.

The decision to become a foster parent should not be made hastily and only after much family discussion, prayer and consideration of all issues involved.

If you feel led to take this meaningful step in your life, please contact me and allow me to help you explore the possibilities for you and your family. **Remember, foster parents and a foster home can mean the difference between hope and despair for a child or youth. There is a Mississippi child who needs you!!!**

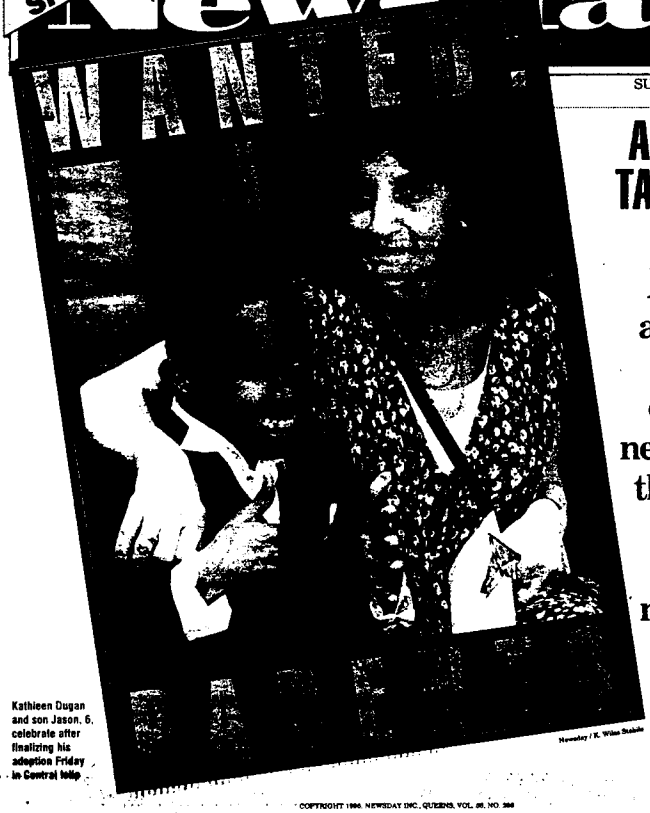
Carole Thornton
Family Specialist
United Methodist Ministry With Children and Families
(601) 853-5000

Cigar, The Best Horse In Years	Summer Arts Preview	Perfect Romantic Resorts	Russian Poet's New Home	Italy Comes Calling

PLUGGED IN: *COMPUTERS AND MORE*, Page A61

SPORTS Newsday

SUNDAY, MAY 26, 1996
QUEENS • $1.25



Kathleen Dugan and son Jason, 6, celebrate after finalizing his adoption Friday in Central Islip

Newsday / K. Wiles Stabile

ADOPTION TAX-CREDIT DEBATE

As more and more black children need homes, the search is on for new ways to find them families

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'This Is Home'

Newsday / Julia Gaines

Bristol and Loretta Francis, center, with four of their five boys, from left, Jason Francis, 12, William Manning, 14, David Francis, 19, and Leonard Rockett, 11, in front of their Medford home. "I tell my boys, 'You're not going to go any further,' " Bristol Francis says. "This is it. This is home."

As thousands of kids wait, minorities are urged to adopt

By Deborah Barfield
STAFF WRITER

Bristol Francis leans against the post of his Medford home and watches four boys carefully clean the grill for the evening's dinner of barbecued chicken. He laughs as the youngsters, who have bounced from foster home to foster home, scramble to move the grill out of the pouring rain.

"I tell my boys, 'You're not going to go any further,' " says Francis, 69, who along with his wife, Loretta, already has adopted three of their five foster sons. "This is it. This is home."

Six years ago, Francis, a retired African-American barber, had no intention of adopting children. But his wife persuaded him to go to a meeting, where a recruiter changed his mind.

The Francises are among the growing number of minorities being targeted by public and private agencies to adopt some of the estimated 500,000 children in foster care, nearly half of them African-American and many available for adoption.

Spurred by predictions that those numbers will continue to climb, agencies eager to expand the pool of minority parents have turned to churches, recruiters and other adoptive parents to spread the word.

But that effort has garnered little support from a recent federal measure that offers a $5,000 tax credit for adoptive parents and eases the process of transracial adoptions by penalizing states that put up barriers.

Critics complain that the money could be channeled more effectively into recruiting more minority parents. "I don't see the infusion of big bucks and the support for it," said Sheryl Chapman, executive director for the Baptist Home for Children & Families in Maryland. "Why are we distracted, as the kids say, from the real deal? And we spend a lot of money being distracted."

Recruitment efforts have shown, Chapman said, that when black families are targeted, more black children get adopted.

And despite the recent federal efforts to open the door to more interracial adoptions, many public and private adoption agencies say they still prefer to place children with parents of the same race to preserve their cultural and racial identity. But faced with the prospect of minority children languishing in foster care, local and national officials say race can no longer be an obstacle.

"There are some adoptions that are delayed and denied, and they shouldn't be," said James Manzarella, spokesman for Rep. Susan Molinari, (R-N.Y.), a lead sponsor of the bill, which recently passed the House and has the support

Please see ADOPTION on Page A30

Debate Over Tax Credit

By Stephanie Saul
STAFF WRITER

They will borrow from relatives, sink into debt, and take second jobs. Most couples who want a family but are unable to have children biologically are undaunted by the cost of private adoptions, sometimes upwards of $20,000. They come up with the cash, somehow.

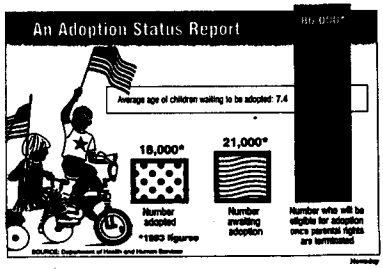
Many adoption advocates view a proposed $5,000 tax credit as welcome relief for adoptive parents. The credit would help make adoption's high cost tolerable. The bill, approved overwhelmingly by the House of Representatives earlier this month, has strong support in the Senate.

For adoptive parents the bill represents more than money. It symbolizes a national decree that adoption is a good thing, a legitimate way to become a parent.

But several child welfare advocates said they feared the tax credit, which will cost the Treasury an estimated $1.7 billion over seven years, would not alleviate the primary problem it is designed to address — the backlog of kids awaiting adoption on the rolls of social welfare agencies.

Unlike the sought-after healthy infant,

Please see CREDIT on Page A30



Larger 1st Family?

THE ASSOCIATED PRESS

Washington — Hillary Rodham Clinton says that "it would be terrific" if she and the president had another child and that they also have been discussing the possibility of adoption, according to a published report.

Hillary Clinton, 48, has acknowledged difficulties having children and has been a strong activist on behalf of adoption. But in an interview with Time magazine she said she continues to hope for a sibling for 16-year-old Chelsea.

"I would be surprised, but not disappointed. My friends would be appalled, I'm sure. But I think it would be terrific," the first lady said about having another child.

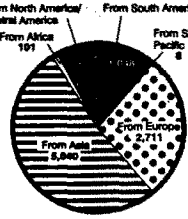
Hillary Clinton said she and President Bill Clinton, 49, also "continue to talk about" adopting a child, but that those talks aren't likely to get serious until after the November election.

NEWSDAY, SUNDAY, MAY 29, 1994

A Foreign Snapshot

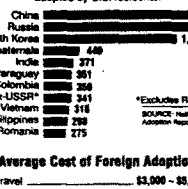
The number of children adopted by U.S. residents in 1995. Figures are preliminary.

Total adopted: 9,679



Top Countries

The countries with the largest number of children adopted by U.S. residents.



Average Cost of Foreign Adoption

Travel	$3,000 - $5,000
Agency fees	$4,000
In-country costs	$3,000

SOURCE: New Beginnings Family & Children's Services

Newsday

Recruiting Families

ADOPTION from Page A5

of President Bill Clinton. "We should put the children first. And racial discrimination has no place in finding homes for children."

People who support the bill and interracial adoptions say children are better off in loving homes, whether black or white, than in foster care and institutions. But critics say Congress has no business stepping into this emotionally charged issue. The National Association of Black Social Workers has called the placement of black children in white homes genocide.

"They're playing into the perception that hundreds of thousands of white families are standing in line to adopt these poor black babies," said Katherine McFate, director of social policies at the Joint Center for Political and Economic Studies, a think tank on African-American issues in Washington. "That's not true. Let's be honest. There's still a lot of racism in this country. There are lots of white parents who want white babies or the next-best thing."

McFate said many white families are going to Europe or Asia in search of infants who more closely resemble them. "There are tons of white parents who want children. A lot of them don't want black children."

Locally, only a handful of whites have adopted minority children. In the past five years, there have been 15 interracial adoptions through the Nassau County Department of Social Services. In Suffolk there were 15 in 1992 and eight for part of 1993, when officials stopped noting the race of adoptive parents.

In New York City — where the majority of public adoptions are African-American children going to people of the same race — the number of transracial adoptions is "a small percentage," according to an expert in the field, who asked not be named. In recent years there have been more than 2,000 annual adoptions by more than 50 agencies on behalf of the city.

Every day Pat Dudley flips through a blue book searching for children her adoption agency could match with a family. The books, which are stacked high at Downey Side Families for Youth, a private adoption agency with an office in Lake Ronkonkoma, are stuffed with pictures of children across the state who are available for adoption. Nearly all the faces are black or brown.

"We barely get through the last batch [of pictures] and pick out a few when we get the next," said Faye Caperna, area director for Downey Side, which specializes in placing older children.

Like agencies across the country, Downey Side is trying to attract more minority families. Recruiters visit churches and community centers and leave fliers in barbershops and beauty salons.

"We're really trying to beef up that pool," said Joe Malewicz, director of children's services at the Nassau County Department of Social Services.

During the past two decades, the number of minority children in foster care has steadily climbed, some say because of the disproportionate number of blacks in poverty, the increasing rate of single parents and the impact of drugs in minority communities.

Newsday / Michael E. Ach

Photos of children up for adoption in NY.

In Nassau County, 75 percent to 80 percent of the children in foster care are minorities, most of them African-American. In Suffolk, the percentage hovers around 50 percent. In New York City "it's almost totally African-American and Hispanic," said Maria Blechner, executive director of Family Focus Adoption Services in Little Neck.

While the black community has long relied on a network of kin to care for its children, adoption officials say the numbers are now overwhelming. And as they continue to increase, it's unrealistic to think black families can absorb the impact.

"This isn't a blame game," said Patrick Purtill, director of government relations for the National Council for Adoption, a trade group in Washington. "It's not as if the African-American community hasn't been adopting these children . . . It's a demographic bubble that these children are just caught in."

The council estimates 40 percent to 60 percent of the 500,000 children in foster care are African-Americans, who stay in foster care an average of two to four times longer than white children.

In Nassau County, equipped with pictures and videos of children waiting to be adopted, Alana Smith goes into churches to talk about adoptions. "We're trying to use every avenue," said Smith, who works for county social services. Meanwhile, Selven Powell, who was hired by the Family Service League to recruit foster parents for Suffolk County, makes his pitch everywhere, including a recent black fraternity gathering.

"It's amazing how many people say, I thought about doing that at one time," said Powell, who also plans to campaign on local radio and television talk shows.

Tax Credit

CREDIT from Page A5

many of the waiting children have medical or behavioral problems. Their average age is 7.4 years. Often they have been moved from one foster home to another. Those children often are adopted at no cost to the parents, but they may require a herculean long-term emotional and financial commitment.

"The legislators are trying to address two different issues that don't really mesh," said Joyce Johnson, spokeswoman for the Child Welfare League of America. The association, an umbrella group for agencies that deal with foster care and adoption issues, supports the adoption tax credit but would like to see additional subsidies for adoptive parents of hard-to-place kids. "They may need a tutor, for instance . . . We say, increase the adoption subsidy. Increase the medical coverage for special-needs children."

Under the bill, approved by the House May 10 by a 393-15 vote, people who adopt can get a tax credit of $5,000, whether or not they spend money directly on the adoption. For those without a tax liability of $5,000 in any one year, the credit can be spread over five years. The credit is reduced for taxpayers who make more than $75,000 a year and disappears for those whose income exceeds $115,000. The bill also establishes a "nondiscrimination" policy in adoption, requiring that states not delay adoptions if a family of the same race isn't available.

"You're talking about increasing the pool of applicants able to afford adoption," said Patrick Purtill, director of government relations for the National Council for Adoption. "We particularly feel it's going to expand the pool of minority couples able to adopt."

Others, while welcoming the legislation, said it probably will not spur adoption. Aaron Britvan, a Woodbury attorney who specializes in adoption, said he views the bill as a "recognition of how vital adoption is in our country."

"A lot of people who look to adopt might be borrowing money for the expenses . . . It will help those people who are marginal — they're not on public assistance, but not making huge sums of money," said Britvan, chairman of the New York State Bar Association's adoption committee.

But Britvan said most people who decide to adopt would do so with or without a tax benefit. Children adopted through the social welfare system often come with a subsidy, an average of $217 a month, and the initial costs of adoption often are borne by the state.

For prospective parents who want to adopt privately, the expenses can reach $20,000 or even higher.

Domestic independent adoptions, in which prospective parents advertise in newspapers for a child, require an investment for advertising that varies widely.

David and Stacy Moll of Massapequa, who adopted their daughter Emily last year by advertising in newspapers, spent about $3,700 on ads during the five months they were seeking a child.

"We were very lucky," said David Moll, a real estate manager who knows adoptive parents who have advertised for as long as two years. Moll estimates the cost of adopting Emily at $11,000, including legal fees.

Sometimes adoptive parents are required to pay medical expenses for the birth mother.

Bonnie Goess, intake coordinator for New Beginnings Family and Children's Services, Inc., a Minnesota adoption agency, estimated the cost of foreign adoption at $12,000 to $18,000, which includes travel expenses to the country where the child is adopted.

Felix Fornino of Brooklyn, state president of the Adoptive Parents Committee, said the tax credit likely will encourage adoptive parents to adopt a second child. "I think people will make the all-out effort for the first child. It becomes more difficult for the second child. This will probably stimulate people adopting the second child. Overall, it's positive in that respect," Fornino said.

NEWSDAY, SUNDAY, MAY 29, 1994

...since I get their ear ... they can hear the ins and outs of adoption. They may be more prone to say, 'Yes, I'd like to try that.'"

It worked for some like Ron Kennard of St. Albans, Queens, who is awaiting the final adoption of two African-American brothers. "At first I was going to do just one. They [recruiters] said, 'Kennard, trust me, these two are perfect for you,'" recalled the single parent. "I just like kids. I just went on and did it."

Now, Kennard said he encourages others to consider adoptions. "The blue books are filled to capacity with African-Americans, Hispanics and biracial children. It's amazing how thick that book is," he said.

Black churches locally are also stepping up recruitment efforts. "They're] tapping into a sense of community solidarity, that it takes a whole village to raise a child," McEate said.

Recruiters say the task can be difficult, particularly in dispelling notions that all adoptions are costly (public adoptions are basically free), that families must be wealthy, and that all the children are unstable. And now more agencies are considering older parents, single parents and same-sex couples.

But for Elizabeth Allen of Copiague it didn't take a recruitment drive for her and her husband, Leon, to adopt three boys. Three more adoptions are pending.

"Recruiting is something you do in the service. But taking care of a child has to come from within ..." said Allen, who is black and has two biological sons. "How could I not open my door? Don't get me wrong, this is not Ozzie and Harriet. But they do give me joy."

Mercedes Dyer of Roosevelt, who is Cuban, had two sons and one on the way when she took in 3-month-old Rayshawn as a foster child three years ago. This month, she and her husband, Heriberto, finalized Rayshawn's adoption. "I know there are a lot out there that need homes. And since I had the space, I was willing to help out. I wanted a girl naturally," Dyer joked.

Sometimes that desire for parenthood crosses racial lines. Friday morning, Kathleen Dugan sat on the edge of her seat in the judge's chamber as 6-year-old Jason, sporting a new, blue pinstriped suit, fidgeted and sucked on a red lollipop. Within minutes, Judge William Kent signed the adoption papers that ended her two-year wait.

"It took a year before Jason called me Mommy," Dugan of Central Islip said outside the courtoom. "Now, it's Mommy, Mommy, Mommy, everything. You have to earn that."

Dugan, a 51-year-old single mother, is white. Jason is Puerto Rican. Race didn't matter when Dugan decided to adopt three years ago. "It just meant God put us together," said Dugan, who went home to await another Puerto Rican child she hopes to adopt.

"We always look for same race, same culture, if possible," said Caperna, chairwoman of the Nassau Suffolk Bi-county Adoption Exchange. "When we can't do that, we don't hold the child in foster care for four years waiting. The damage could be done. Three months is a long time for children."

Sharon Pelletier is sure race is the reason it took four years to finalize the adoption by her and her husband, George, of their biracial daughter, Cara. Pelletier, a white foster parent, raised Cara since she was 4 days old, born to a cocaine-addicted mother. When Cara was available for adoption, the Pelletiers were first to be asked, as required by law. Although they said yes, the Nassau County Social Services agency still searched for a black family, Pelletier said.

"I didn't think it was fair. It's like they forget that the child's mother was white," she said. "It [race] should not make a difference. There are so many children in this country in need of homes. And when you find a home that is willing to take a child and love it and make sure all its needs are met, I don't think color should even come into it."

Pelletier said she feels strongly about Cara knowing her black and white cultures. "I'm not trying to make her think she's all white," said Pelletier, adding that Cara has dolls that are black and white and even "one that looks like it might be half and half."

But not all agree. "There's a richness in culture that I can't give them," said Downey Side's Caperna, who is white and has 10 adopted children, including three from Korea, six African-Americans and one Caucasian. "[But] I can give them all the tools," to survive.

The Francises plan to do the same for the boys they are raising. One recent evening, Loretta and Bristol shouted commands as the boys paraded by to clean their rooms.

"They need a foundation because we're going to have jails filled with nothing but blacks and Hispanics," said Francis, who has five grown children and many grandchildren. "We've got to give them a foundation, give them some roots."

Otto Strong contributed to this story.

'It Just Meant God Put Us Together'

Six-year-old Jason Dugan, above, celebrates with his mother Kathleen Dugan, 51, at McDonald's in Central Islip after finalizing his adoption on Friday. At left, Judge William Kent congratulates Jason and his mom at the hearing in Family Court in Central Islip. They waited two years for the adoption.

Newsday Photos / R. Wilder Stanton

'At first I was going to do just one. They [recruiters] said, "Kennard trust me, these two are perfect for you." I just like kids. I just went on and did it.'

— Ron Kennard of St. Albans, who is awaiting the final adoption of two African-American brothers

NEWSDAY, SUNDAY, MAY 28, 1995

SPORTS Newsday

QUEENS • SATURDAY, JUNE 22, 1996 • 50¢

Carmen Soto, 54, Opened Her Home To Toddlers Who Now Call Her Mommy; She's One Reason Why Foster-Care Adoptions Are Up 58 Percent in City

Story on Page A

Carmen Soto is in the process of adopting brothers David, left, and Samuel. She holds Michael, who she also hopes to adopt.

Places In the Heart

Newsday/ Ken Spencer

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Home for Good

City seeks placement for foster kids at adoption fair

By Liz Willen
STAFF WRITER

Carmen Soto thought she had moved beyond the days of diaper changes and midnight feedings. Then she met David and Samuel Cruz, the two toddlers who now call her mommy.

"I got crazy about them right away. I just fell in love," said the 54-year-old grandmother, who is in the process of adopting the brothers, 2 and 3. "Believe me, these kids fill some part of my heart."

As the city prepares for its 19th annual adoption fair in Manhattan tomorrow, officials are seeking homes for thousands of children like the Cruz brothers, who are are now part of a noisy and loving household that includes Soto's 26-year-old son, Ruben, and five-month-old Michael — a foster son she also hopes to adopt.

The number of foster-care adoptions in the city increased 58 percent last year — from 2,312 in 1994 to 3,665 in 1995, said Joseph Cardieri, the assistant deputy commissioner for adoption services. Another 2,805 children were adopted between last July and the end of April.

Even the harshest critics of the way the city has handled child-welfare issues in the past have applauded efforts to find permanent homes for foster children.

"What they did was use a stick rather than a carrot to help agencies focus their efforts on finalizing adoptions," said Edith Holzer, director of public information for the Council of Family and Child Caring Agencies, an umbrella group representing the city's private, nonprofit foster-care agencies.

City officials say a series of financial and other incentives have pushed foster agencies to free children for adoption. There are now 8,400 children in foster care whose parents have terminated all ties, and about 5,500 of those children are in the process of being adopted, Cardieri said.

The city has targeted 18,000 other children who will likely be freed for adoption in the near future.

"It's a very, very valuable, wonderful and beautiful thing being done," Mayor Rudolph Giuliani said yesterday, urging New Yorkers to attend tomorrow's fair. "The more children that we can have adopted, the sooner and faster we can move to the next level here in protecting children in New York City."

The chubby, brown-haired Cruz brothers were among the 43,000 city children in foster care before they came to Soto's East Elmhurst home in December.

Soto learned about her future children when she contacted the Edwin Gould Services for Children, a nonprofit agency based in Manhattan. While social workers completed a home study that detailed her ability to raise children, Soto visited the boys at their temporary foster home in the Bronx.

They came home to Queens in December; a month later she took in Joseph Michael.

"The boys help move his carriage back and forth and put his pacifier back in his mouth when he's crying," said Soto, whose husband died a decade ago. She still works full time as a nutritional health aide at St. Luke's-Roosevelt Hospital Center, but gets a lot of help and support from neighbors and four grown children. She also has six grandchildren.

The boys — who are learning both Spanish and English — had trouble speaking at first, Soto recalled. They are now enrolled in early intervention preschools. "They are really thriving under her care, and she finds it very gratifying," said Suzy Sanford, supervising adoption coordinator for the Edwin Gould agency — which will complete 98 foster care adoptions this year.

"I think the boys are very glad to be here. They seem happier every day." said Soto. "And I'm grateful to have them all in my house."

Sanford hopes people like Soto will be a role model for prospective adoptive parents, who do not need to be married, young or have a lot of money to adopt. State subsidies will help Soto raise the boys and pay for the cost of the adoptions; the rates vary depending on the needs of the child.

"Carmen had no pressing family concerns; her children were raised and she was ready to use her energy in a productive way," Sanford said. "She was ready to take on this challenge."

The fair will be held at District Council 37 on 125 Barclay St. Photo displays, workshops and orientation sessions will be available in both English and Spanish, and representatives from more than 50 adoption agencies will be on hand.

Statement of Ethel J. Dunn, Executive Director
Grandparents United For Children's Rights, Inc.
and
The National Coalition of Grandparents, Inc.
To The
Committee on Ways and Means
Subcommittee on Human Resources

Relating to the June 27, 1996 Hearing on *Barriers To Adoption*, The Honorable E. Clay Shaw, Jr. Chairman.

On June 17, 1980 the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) was passed, "*To establish a program of adoption assistance to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes.*"

Generally, the Act was passed by Congress for two reasons. The first was to help alleviate the national problem of the enormous number of children who yearly were being funneled into out-of- home placement because of child abuse and neglect. The second was designed to address the long periods of time that children were away from their families. Funds were allocated for each state that provided a state plan which would indicate compliance with the federal law. Thus, Title IV was amended by the addition of a new section entitled, "Part E-Federal Payments For Foster Care and Adoption Assistance" (Title IV-E).

The prevailing thought at that time was that there is a unique bond between birth parents and their offspring, so strong that returning even abused and neglected children to their original homes as fast as possible after removal is always preferable to long-term placement with others, either nonrelative or kin.

And, the legal, judicial and child protective agencies have been effective in preserving the goals of P.L. 96-272 as it was intended – perhaps too effective -- to preserve the family first and the child second. Thus, were the components set in motion which made relevant the topic under discussion – *"Barriers To Adoption"* -- that we are now examining.

The following excerpt is a direct quote from Public Law 96-272-June 17, 1980:

Item 15 of the "State Plan For Foster Care And Adoption Assistance, Sec. 471 reads, "*...effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;...*"

In quoting from *"Definitions," Sec. 475, (5) The term 'case review system' means a procedure for assuring that---*
"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child,
"(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date for which the child may be returned to the home or placed for adoption or legal guardianship,..."

We know that passage of PL 96-272 was not designed to harm our nation's children. There is no question in our minds about that. Rather, it was written and passed by a group of concerned individuals whose purpose was to provide a haven for children who, along with their families, were undergoing periods of crisis and extreme stress. Further, it was sincerely intended to remove "at risk" children from environments that may have been fatally harmful to them and to give their

biological or adoptive parents a chance to undergo treatment, thus enabling them to become better and more loving parents.

Unfortunately, passage of the law did not cause the anticipated reversal of the nationwide trend that had been observed. The need for removal of children from their homes, instead of lessening, worsened. Coincident with passage of PL 96-272 there was observed a marked decline in the availability of non-related foster families. The National Foster Parent Association (NFPA) reported that, between 1985 and 1990, the number of foster families declined by 27% while the number of children in out-of-home care increased by 47%. As the number of foster families decreased, child welfare agencies turned increasingly to kin as resources for children in care.

According to figures released by the Child Welfare League of America, North American Kinship Care Policy and Practice Committee, by 1992 over 430,000 children had been separated from their parents and placed in foster care, a 56% increase in the past decade. In some states, while the total number of births decreased, the number of children requiring out-of-home placement increased. Also, in some states the foster care waiting list ran into the high tens of thousands. In New York City, for example, the waiting list for placement was so long that strangled agencies were being forced to return children to abusive or neglectful homes at the end of the allocated time period simply to open the way for other children to be given placement respite.

Thus began the "children as yo-yos syndrome." By this we mean that, while frequently abused and/or neglected children might be quickly and efficiently removed from their painful environments and placed in loving, stable and nurturing homes, they might be just as quickly returned to the insulting environment. There they are frequently abused again, removed again and, sadly, returned again to their abusive parents. Often, they were free just long enough to have had a chance to start the healing process. They might even have had an opportunity to begin to trust and to look forward to a joyful future.

Unfortunately, because judges, lawyers and caseworkers can cite the family reunification policy as justification, the "best interest of the child" standard, in circumstances such as outlined above, becomes second to the "family" in defining public policy. Those same children whom I have previously profiled are too soon returned to "parents" who have failed to comply with agency demands for treatment and who are still not emotionally responsible or compliant individuals. They are, "parents" who prefer the enticement of the pleasure/pain of addiction to the enchantment of a child's love. They are people who would rather experience the high of alcohol or coke to the high of a child's touch, hug or the joy of a small voice saying, "I love you."

It's not unusual in 1996 to hear of the death of a child who was reunified. In 1994, according to the *Child Maltreatment 1994: Reports from the States to the National Center on Child Abuse and Neglect*, 48 states reported that 1,011,628 children were determined to have been victims of abuse and neglect; 80% of the perpetrators of child maltreatment were deemed to be parents and an additional 10% were other relatives of the victim. States reported that 1,111 children were known to have died as a result of abuse and neglect.

Certainly, we are not intimating that each victim died as a result of having been returned prematurely to an uncaring parent. Some, in fact, never left home. Nor can we blame passage of P.L. 96-272 for all the heinous crimes of the country centering around children. Further, we are clearly aware that in some instances the law has worked to the benefit of children and families.

However, the tales that we have heard from loving kin of the *child victims* indicate a long history of trying to work within the system, only to find that its structure and impetus appears to run counter to the benefit their grandchildren, nieces, nephews or other youthful kin. The advocates for these children relate stories of repeated attempts to call attention to the authorities that the children whom they passionately love are being abused, neglected, some tortured and eventually, perhaps, murdered upon return to their irresponsible and unresponsive parents. Most tell us that their voices go unheeded, that the information they attempt to convey goes unheard, that they have nowhere to turn in their sorrow, anger and frustration. Some, upon hearing that a child has been murdered become reflective and thankful that their grandson or granddaughter must no longer suffer.

We need your assistance to stop this needless trend. Neither this agency, nor the individuals who comprise its constituency, are opposed to parental rights. However, we maintain that analogous to those rights **must** go the obligations and responsibilities of healthy parenting. Minor amendments to the Adoption Assistance Act of 1980 would greatly clarify public policy in favor of our children, who rightfully, should be considered first and foremost.

The deaths of at least five children in the United States each day as a result of child abuse and neglect is more than we should be willing to tolerate. This number does not include those children who remain living examples of the horrors of the abuse they suffered, those who will remain forever in a vegetative state, those whose mothers caused them to become substance abusers while still in-utero and who have suffered permanent and tragic brain damage, those who age chronologically but mentally remain children forever, or those who withstood the agony and who will go on to become perpetrators in their own right.

We **do not** request that PL 96-272 be revoked.

We need your assistance, however, in making it a workable mandate that reflects the "best interest of the child" as the primary objective, and the "best interest of the family" as the secondary one. All families at risk certainly need all the help that they can get in order to become healthy. Our judges should be given the mandate to determine when families can be salvaged and when they can't. Interested party standing and judicial objectivity and attention should be paid to kin and nonrelative alike who have a stake in preserving the lives and well-being of the children for whom they advocate.

For example, there was a much publicized case in California recently. Lance Helms, age 2, had lived with his biological aunt almost since birth. However, with his mother incarcerated, an attempt was made to unify him with his biological father. Each time Lance returned from a visit with his father, his aunt and grandmother discovered new signs of horrible abuse. They repeatedly attempted to discourage contact between Lance, his father and his father's live-in girlfriend, but to no avail. They were deemed "too emotionally involved." Each time they went to court the judge overruled their objections in favor of the necessity to preserve the family. Eventually, Lance was sent to live with his father and his father's friend.

Within weeks of Lance's "reunification" he was murdered by a hateful adult in whose care he was entrusted.

How many innocent two year olds, or three or five year olds must be lost before we begin to consider public policy changes? How much longer must so many of our children suffer before we recognize that our system is ill and seriously in need of repair?

We ask that state judges be given increased allowance by the federal mandate to order only "reasonable reunification efforts" when it is truly in the child's best interest.

We ask that agencies (hospitals, Child Protective Agencies, doctor's offices, schools, etc.) be required to exchange information regarding a child who has been reported. It is not unusual for a child to be taken to several hospital Emergency Rooms in order that the parent may avoid being reported as a potential abuser. A data base system might be set up for this purpose, perhaps through the Department of Health and Human Services of each state.

If a child is under agency care, we propose that the "wrap-around" system be employed, wherein each individual involved in the child's life attends meetings together and there is a free exchange of information regarding the child and his/her complete family.

We share advocacy of the following recommendations with our colleague Lynda Carter Cajoleas, RN, MSW of Roswell, Georgia, who submitted them recently to federal lawmakers in Washington, D.C.:

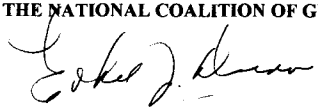
It is not necessary to attempt reunification in the following circumstances:

1. There is a medically verifiable deficiency of the parent's physical or mental health of such duration and nature as to render the parent unable to provide adequately for the physical and mental needs of the child.
2. In cases of abandoned newborns and babies born drug addicted, termination of parental rights is automatic.
3. There is excessive use of or history of chronic unrehabilitated alcohol and/or substance abuse and misuse with the effect of rendering the parent incapable of providing adequately for the physical and mental needs of the child.
4. There is a conviction of the parent of a felony and imprisonment therefor which has a demonstrable negative effect on the quality of the parent-child relationship.
5. There has been egregious conduct or evidence of past egregious conduct of the parent toward the child or toward another child of a physically, mentally or sexually cruel or abusive nature, including neglect or abuse.
6. There has been injury or death of a sibling under circumstances which constitute substantial evidence that such injury or death resulted from parental neglect or abuse.
7. The court is unable to show through clear and convincing evidence that the child's physical and mental welfare will be protected through reunification.

Again, we ask your assistance.

Respectfully submitted

GRANDPARENTS UNITED FOR CHILDREN'S RIGHTS, INC.
THE NATIONAL COALITION OF GRANDPARENTS, INC.



Ethel J. Dunn
Executive Director
Co-President

SUPPLEMENTAL SHEET

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PUBLIC LAW 96-272 - JUNE 17, 1980, 96th CONGRESS, (H.R. 3434) TITLE I-IV E.

U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, Washington, D.C., *Child Maltreatment 1994: Reports from the States to the National Center on Child Abuse and Neglect*, 1996.

SUMMARY AND RECOMMENDATIONS

This statement relates to the Adoption Assistance Act of 1980 (P.L. 96-272) and its impact upon children who fall under its jurisdiction. Suggestions for Amendments to P.L. 96-272 are made which may help to alleviate the numbers of children who are currently "reunified" with parents who are unable or unwilling to assume the responsibilities of parenthood. A list of Recommendations is given which we think will prove beneficial to all parties.

RECOMMENDATIONS

1. There is a medically verifiable deficiency of the parent's physical or mental health of such duration and nature as to render the parent unable to provide adequately for the physical and mental needs of the child.
2. In cases of abandoned newborns and babies born drug addicted, termination of parental rights is automatic.
3. There is excessive use of or history of chronic unrehabilitated alcohol and/or substance abuse and misuse with the effect of rendering the parent incapable of providing adequately for the physical and mental needs of the child.
4. There is a conviction of the parent of a felony and imprisonment therefor which has a demonstrable negative effect on the quality of the parent-child relationship.
5. There has been egregious conduct or evidence of past egregious conduct of the parent toward the child or toward another child of a physically, mentally or sexually cruel or abusive nature, including neglect or abuse.
6. There has been injury or death of a sibling under circumstances which constitute substantial evidence that such injury or death resulted from parental neglect or abuse.
7. The court is unable to show through clear and convincing evidence that the child's physical and mental welfare will be protected through reunification.

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Statements in Response to the Subcommittee on Human Resources of the Committee on Ways and Means, *Hearing on Barriers to Adoption*, June 27, 1996

Thousands of children in our country have been removed from their long-term loving families because of repeated attempts at reunification with biological families who have been unable to care for the children for years on end. Thousands of others still face this threat. Children of all ages are denied the recognition of their need to maintain bonded family relationships with the people who have cared for them, and whom they trust.

Additional thousands suffer serious injury after reunification with biological families who have a history of repeated abuse. In many states there have been documented cases of serious injury to a child following reunification as recommended by case workers who feel they are forced to recommend reunification even when they fear for the safety of the child. Although media attention has brought some of the worst cases (in which children have been murdered) to the spotlight in the recent years, the enormity of this tragic situation is largely unknown to the general public and inadequately addressed by legislators and judges.

In addition to the horrendous physical abuse that is covered in sensational news reports, hundreds of thousands of children sustain deep emotional and psychological scarring when they are denied permanent, loving family bonds for a large portion of their childhoods. Many of the half-million children now in foster care are kept for years on end in government foster homes, group homes, and shelters, because their absentee biological parents cling to the legal rights to their children.

At Hear My Voice, over the past three years, we have received telephone calls and letters from thousands of custodial parents of children who face losing their long-time families. A case in point will demonstrate the gravity of the situation: 3-year-old Sherrie Sewell from Kentucky has spent her entire life in the care and custody of Ron and Joyce Bailey. Her two

biological siblings have also lived with Ron and Joyce for 3 years. The children's biological mother is serving a 5-year prison sentence for 1st degree criminal child abuse. Her rights to the older two children have been terminated due to the severity of the abuse she inflicted upon them. The Baileys have adopted the older two children but are unable to adopt Sherrie because the State of Kentucky is attempting "reunification" of Sherrie with her biological mother. This 3-year-old child has monthly visits in prison with her biological mother, except for the months during which she is in solitary confinement for her repeated episodes of violent behavior. Upon her release in 2 years, the state plans to remove Sherrie (who will be 5 years old at that time) from her lifelong parents and siblings, in a "reasonable effort" to reunify her with her "family." Any person who can think and feel can see clearly that this is a case of state-enforced child abuse. The emotional trauma Sherrie will suffer when she is taken from everything and everyone she knows and loves is unthinkable. The future Sherrie faces with her violent biological mother- a convicted criminal with ongoing violent behavior- is too hideous to ponder.

Can any of us call this reunification plan "reasonable?" Sherrie's case is one of thousands of children facing truly unreasonable reunifications with biological adults who may have blood ties the children, but have no emotional or psychological bonds with them. We must reconsider the effects of the Child Welfare Act now, before thousands more children are hurt physically or emotionally.

HEAR MY VOICE is deeply concerned with the physical abuse inflicted upon children who should have been protected by our Child Welfare system. We are equally concerned with the severe emotional trauma suffered by children who are removed from their long-term, loving, bonded psychological families. This emotional trauma, while largely undocumented, should be taken seriously by all those considering changes in the structure and interpretation of our child welfare policies.

HEAR MY VOICE believes that short-term foster care can serve an extremely important role in the lives of children and their biological parents who cannot care for them for a variety of reasons. Successful preservation of biological families is most often of critical importance. However, to leave children without permanent placement for years on end in order to preserve families that were non-existent in the first place is

to ignore the basic need and right of every child to be part of a permanent family.

Legislation that allocates funding for "family preservation" does not recognize that, for many children, preserving (reuniting) the biological family can mean the tearing apart of what they have known as family for years on end, including psychological parents, siblings, and grandparents.

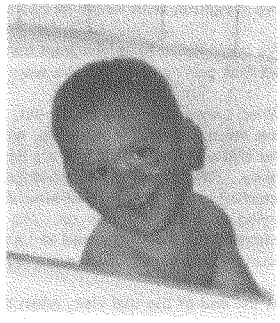
We respectfully urge all members of the Subcommittee on Human Resources of the Committee on Ways and Means to hold the interests of our children at the center of all considerations in redefining and clarifying the Child Welfare Act. We urge you to look through the eyes of the child as you consider how to protect our nation's children and their families.

STATEMENT OF GAIL A. HELMS
JUNE 27, 1996

On July 7, 1996, I found out about the Hearing on Barriers to Adoption held in Washington, DC on June 27, 1996 by the Subcommittee on Human Resources.

Since I only had a few days to prepare a written statement for consideration by the Committee on Ways and Means for inclusion in the printed record of the hearing, I would like to begin by sharing a speech with you that I gave on April 18, 1996 in Washington, DC, at the invitation of the National Coalition of Grandparents at their rally on the steps of our Capitol.

OUR LAWS ARE KILLING OUR CHILDREN
National Coalition of Grandparents — Washington, DC
by Gail Helms



I'm grateful for this opportunity to speak to you as a mother and as a grandmother who has seen first-hand how much damage well-meaning laws can do to a family.

The hardest thing for a mother to do is to declare that her own child is unfit to be a parent. A mother gains no satisfaction from saying that. Anyone who would ever say that would only do so if it was absolutely true. Yet I have had to look at my own son and say he wasn't fit to be a parent. Still, our courts did everything in their power to allow him to be a parent — and because of that, my 2-1/2 year old grandson rests in a grave in Glendale, California.

Everyone wants families to be united and strong. We all want parents to care for their biological children in close, loving families. Because of that, we have laws in almost every state that favor the reunion of broken families. But these laws, which are meant to strengthen families, so often result in the destruction of poor, innocent children — children who have no other laws for their protection. Family reunification is doing exactly the opposite of what it was meant to do. Well-meaning laws are killing our children.

For those of you who do not know about my grandson Lance Helms, I would like to tell you a little about him and what happened to him in Dependency Court in Los Angeles.

Lance was born in September of 1992 as a drug-addicted baby to an unmarried couple in Los Angeles. The father, my 34-year old son David, was a heroin addict for more than four years and an alcoholic. Lance's 25-year old mother was also a heroin addict and alcoholic.

David asked his sister — my daughter, Ayn (pronounced Ann) — to care for Lance until the birth mother entered a drug and alcohol rehab program where she would live with the child. Ayn expected to care for Lance no more than two months, but the birth mother ran away. We didn't hear from either parent for eight weeks. A few months later, the birth mother was arrested, and went to prison for armed robbery for three years.

Ayn was appointed foster mother by Dependency Court. To Lance, Ayn was "mommy," and she raised him from 5 days of age to 23 months. I helped my daughter raise him, and Lance was loved and adored by our family.

Lance had respiratory problems because of the drugs in his system, and he threw up a great deal, but he never complained. Besides being good-natured and a happy little boy, there was something very special about Lance — ***he really loved people!*** He was quite the talker and very animated. When he was 20 months old, Lance could count to 12 —

he loved to count buttons on your clothes — and by his second birthday, he not only talked a great deal, he carried on a conversation with you. Like many children, he loved Barney, and at 2-1/2 often said, "When I grow up, I want to be a dinosaur!"

The focus in life of Lance's father and birth mother was partying and taking heroin. Her hobby was check forgery and theft. His hobby was dealing out physical violence to anyone who would not let him have his own way.

Just after Lance's first birthday, when it became apparent that my son David wanted full custody of Lance, Ayn and I hired an attorney so she could get de facto status (legal standing) in the Dependency Court case. We did not believe that anyone with a conscience could ever give my son David custody of a child. He was a heroin addict, an alcoholic, he had a criminal record, and an extremely violent history. He had beaten every woman he had ever lived with, from his sisters to his mother to his grandmother to his girlfriends.

David had completed a two-week drug program, but bragged to us that he could flush drugs out of his system in three days. By now he had moved in with an old girlfriend, Eve Wingfield, with whom he had another son who was 1-1/2 years older than Lance.

We could never have imagined that someone with David's track record would have any success getting custody. We were so horribly wrong.

When Lance was 23 months old, David was given a 60-day trial visit. Lance went to live, for the first time in his life, with David and we were given visitation. That's when the abuse started. Nearly every time Ayn or I saw Lance, he had some type of bruise or injury. We began taking photographs of his injuries a month later. Each time we returned Lance to his father after visitation, he would scream uncontrollably, sometimes crying so hard he threw up. His social worker saw how bad the situation was and informed the judge assigned to Lance's case — but neither the judge nor anyone in the court system cared. They were following through on family reunification.

At the end of the trial visit, when our photographs of Lance's injuries were given to the court, the judge delayed giving David full custody and extended the trial visit. But the abuse continued. Black and blue marks on Lance's face, up and down his little back, behind his ears, bruises shaped like large finger marks on his upper arms, and scratches and bites. How could a little boy get black and blue marks on his back, behind his ears and around his upper arms?

Everything Ayn and I said or did to warn the court — even the photos we took of his bruises — was ignored. Everything was dismissed or mocked by the judge, the attorney for David, and Lance's court-appointed attorney. They were following through on family reunification. They were just doing their job, and resented any interference or questioning.

From October through January 1995, Lance told us the things his daddy did to hurt him. It killed us that the court didn't care that this little boy was suffering — they were obligated to follow through on family reunification.

Even though two social workers and a psychiatrist recommended drug testing, the judge didn't bother making David drug test from the time he was given unmonitored visits with Lance until he gained custody — a period of 10 months. David's attorney convinced the judge that he had already completed his drug testing. The judge knew that Ayn and I reported David was using drugs while Lance lived with him. He even came to two court hearings so high on drugs, he passed out in the waiting area. But the judge refused to order drug testing.

In January of last year, David was finally granted custody of Lance. The following day, the social worker removed Lance from David's home when he was discovered to have a horrible black eye. Yet at a hearing a few days later, Lance was returned to David, who had testified that Lance gave himself the black eye because he was uncoordinated and clumsy. This was not true. But the judge and the attorneys didn't care. They were just doing their job.

After the black eye incident, my daughter Ayn, who had been fighting a really heroic battle against lupus, an immune system disease, began to wear down from the stress. Stress caused by seeing the emotional and physical pain Lance was enduring and stress from feeling helpless to protect him. As Lance's abuse continued, her condition weakened.

During our last two visits with Lance, he told my family that David's live-in girlfriend Eve was hurting him by bending his thumb back, hitting him in the back, and giving him cold showers and that he cried.

There are too many more details to report to you. But the only real detail you need to know is this. My grandson Lance was murdered on April 6th of last year (1995). The death certificate states Lance died from being punched in the stomach (four times) by an adult assailant. His liver had been ruptured by the severity of the blows. There were 29 bruises and injuries on his little body that day. One of the blows to the back of his head had caused brain swelling. There were only two suspects in the murder of Lance Helms: David and his live-in girlfriend, Eve.

The last weekend we had Lance, just four days before he died, was a very special time, and he looked better than he had looked in a long time. I had my grandson all day Saturday while Ayn worked. We got his hair cut, made mud pies at the park, and I taught him that he was 2-1/2 years old. When I was driving Lance back to Ayn's house that night, I asked him how old he was, and he answered three and a half. I said, "No, Lance. You're ***2-1/2***" and he replied, in that lilting voice of his, "I'm ***two and a half?***" I said yes, and he smiled.

Ayn and I dressed our baby for his funeral. I watched my daughter pick up his little black and blue foot and tell me how she used to kiss his toes and tell him that she loved his little feet because they smelled like potato chips — and he would throw back his head and laugh.

The judge and the attorneys who allowed this to happen to Lance deny ***any*** responsibility. They claim they were just doing their job — following through on family reunification. But what does "family reunification" mean and what is the definition of "family"?

Is the law meant to help people like my son David and the woman whose egg he happened to fertilize? You cannot fix something that never existed in the first place. There never was a ***family*** to reunite. Yet taxpayers are footing a tremendous financial burden to do just that and they are not getting their money's worth.

In Lance's case, his family was ***Ayn***, not David. He was taken from a loving home and forced to live with constant abuse. All Lance ever wanted in this world was to be with the person who loved him, kept him safe, and made him laugh.

My daughter Ayn grew sicker and sicker after the death of the little boy she raised as her own. She was hospitalized several times during the summer as her kidneys began to fail her. "Mommy Ayn" died in September last year — five months after her beloved Lance. Now they are together. That is the real family reunification.

Because of confidentiality, the current child dependency system operates without accountability. Judges and attorneys are allowed to act in secrecy without any fear of public scrutiny, even when a child dies. If the results of these child dependency cases were acceptable, none of this would really matter — but the results of these cases are a tragedy, and the entire system is to blame.

We need sensible changes in our laws. Changes that will allow for shorter windows of opportunity for negligent parents to come back for their children. Changes that will allow for children to be protected by the courts when their little bodies are in danger. Changes that won't put children in the homes of biological parents who are unable to function as proper care-takers. Changes that prevent tax-payer dollars from being used as an incentive to maintain a destructive system.

Being a grandparent is wonderful! Many of our congressmen are grandparents and many others will be some day. What will they tell their grandchildren about what they accomplished in office. Will they be able to say they changed the laws to save our children? Wouldn't it be wonderful if they could.

I am always angered when anyone refers to Lance as having "slipped through the cracks." He did not slip through a crack in the system — he was pushed into an enormous chasm created in the child dependency system because family reunification laws simply place more value on parental birth rights and little or no regard for the safety, protection, and security of children.

What does "family reunification" really mean? Does it mean the courts are committed to making sure that homes are strong, caring, loving places for children? No. It means that the courts are committed to sending innocent children to violent, abusive and dangerous homes — all because of well-meaning laws that are killing our children.

I would like to continue my statement with the following information:

After hearing about Lance, my State Senator in California, Richard Polanco created a new Subcommittee on Crimes Against Children. Their first order of business was to examine California's child protection laws. They stated that "we have a serious problem in this state — an epidemic that is not going away on its own" and that they needed to address this problem proactively. They wanted to identify the weak links in the system and used one case as an example: The story of two year old Lance Helms who was brutally tortured and beaten to death.

The Subcommittee held a hearing on January 19, 1996 in Sacramento and issued subpoenas. They wanted to find out how this happened so it could be prevented from happening again — but, "the court circled the wagons." They said the Senate Subcommittee did not have the right to know and put a gag order on the witnesses.

Deanne Tilton-Durfey, Director of ICAN (Interagency Council on Abuse and Neglect in Los Angeles), gave an excellent presentation at the January hearing. She listed the five following indicators that a child is at high risk of being abused:

		(1) The child is under the age of 3, and
there is a history of	—	(2) domestic violence
	—	(3) substance abuse
	—	(4) anti-social behavior
	—	(5) previous abuse to the child.

All five of these indicators were present for Lance with his father, David. I am David's mother. I know him better than anyone else in the world. Yet the court completely disregarded my testimony and Ayn's testimony, even when Ayn's attorney pointed out that David's psychiatric evaluation verified everything we had told the court. Among other things, the evaluation classified David as having anti-social, and even criminal, behavior, with an inability to form warm attachments with others or accept responsibility for his actions.

Lance's social worker, who had been subpoenaed to the January Senate Subcommittee hearing, was anxious to testify. She wanted to tell how she had tried to get a rehearing after the court placed Lance back with his father six days after she removed him from the home because of his severe eye injury. But she was not allowed to testify because she received a letter from County Counsel warning her that if she testified, she would be reprimanded, disciplined, most likely lose her job, and be liable for criminal charges (for breaking confidentiality).

This social worker wanted to tell the Subcommittee how the County Counsel (who represents the Department of Children's Services and acts as a prosecutor) said there wasn't any point in having a rehearing because the child had already been placed back with the father and besides, "he (Lance) is hyperactive."

This attorney had never seen Lance before. He based his statement on Eve's testimony that Lance was an uncoordinated little boy, who fell all the time. David and Eve were the only ones who testified after Lance was removed from the home. Ayn, who had de facto status, was not allowed to testify at this hearing, nor was I.

The social worker knew Lance was not a hyperactive child. She wanted to tell the Senate Subcommittee that she never would have believed it possible that the court would return Lance to his father after the black eye incident. The new petition she filed when she removed Lance from David's home was very clear and explicit when it stated there was "substantial risk" to the child and he was being "subjected to cruelty" by either Eve Wingfield or David. The judge and the court-appointed attorneys completely ignored her petition.

The Senate Subcommittee held a second hearing in Sacramento in March. The Subcommittee has introduced four bills to make changes for the benefit of children. A number of other legislators, in both the Senate and the Assembly, have also introduced legislative reform, many of them because of Lance's death. One of these bills, by Assemblyman Jim Morrissey, has now been submitted to our Governor.

However, it is crucial that changes be made at the ***federal level***. The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) must be amended to protect our nation's children from being destroyed emotionally and physically. I do not believe this Act was put in place to be used the way it is currently being used. It was in place before the advent of the drug culture that is so prevalent in our society today. Quite simply, the experiment of family reunification has not been successful.

Caren Sempel, of the National Center for Prosecution of Child Abuse, made an excellent observation when she said, "On one hand you have a federal mandate that says there must be family reunification at all costs and yet the system is supposed to protect the children. How do you reconcile these two objectives?"

No one can tell us how many drug parents, who enroll in rehab programs and take parenting classes, stay off drugs and become caring, responsible parents. Because of confidentiality, we do not know how many of these people seriously abuse, permanently disable, or murder the children they are "reunified" with.

However, we do know that young, defenseless children are being permanently disabled or murdered at an increasingly alarming rate throughout the United States when they are forced to live with abusive people.

It is currently estimated that 18,000 children in the U.S. are being permanently disabled by child abuse each year. Think about that. ***Permanently disabled!*** The majority of these permanent disabilities involve brain damage. Right here. In the United States! What in the world is going on?

Your constituents are going to pay for the care of these disabled children for many, many years.

As soon as Ayn hired an attorney to get standing in the case, she was regarded by the court-appointed attorneys as the enemy. At the permanency placement hearing, when Lance was 20 months old, Ayn's attorney asked the court to allow her to adopt Lance. The father's attorney and Lance's attorney claimed this was a custody battle; that Ayn simply wanted a baby. Lance's social worker recommended Lance be placed for adoption based on the father's psychiatric evaluation, his history of domestic violence, and the strong bonding between Ayn and Lance.

Why couldn't Ayn and our family — the people who raised and loved Lance — be allowed to adopt him? When people say they fear that less restrictive adoption will result in children being removed from poor parents and placed with people of means, that is absurd. Of course, no one wants that. But using this excuse to prevent children from having save, loving homes is ridiculous.

Lance suffered terribly when he was forced to live with violent, drug-addicted people who continually abused him. He did not understand why we would return him to this horrible environment. He did not know what he had to do so we would keep him with us. He thought if he was very, very good, we would not return him, because David and Eve kept telling him he was "a bad boy." It broke my heart when this easy-going, gentle little boy told me his daddy hit him on the head whenever he forgot and called Ayn, "Mommy," instead of "Auntie Ayn" like David had told him to.

My daughter died because she could not live with the agony that she was the one who returned Lance to his father each time after visitation when he would beg her not to.

After the poor results of David's psychiatric profile, the judge always refused to do anything that might possibly put David in a bad light — he wouldn't order additional drug testing, even when Lance lived with David; he wouldn't allow Ayn or I to testify about Lance's injuries and behavior when he was returned to David; he wouldn't appoint an expert witness to investigate the injury photographs; and he refused to remove Lance from David's home during the time of the alleged abuse and neglect.

If the judge had cared about the child, he would be alive today. It would have been so easy to save Lance. Because of confidentiality laws in children's courts, the judge, the court appointed attorneys for David and for Lance, and the county counsel could do anything they wanted; there was no one to monitor their actions, no way to stop them, and no way to hold anyone accountable for the fate that awaited Lance. Because of family reunification, these four men were determined to give the biological father his son, even if it meant ignoring and covering up the abuse Lance endured while living with David.

How did the court get away with this? Because of confidentiality which protected the overall operation of the court and these four men, who were paid by taxpayers to ***protect*** children. Did the confidentiality laws protect Lance?

Lance's court-appointed attorney turned out to be more of an advocate for David than he ever was for his own client — Lance! He continually made excuses in court for Lance's bruises and injuries while in David's care. In a report to the court, he referred to our photographs of Lance's injuries as "camera wars." After the black eye incident, when Ayn took Lance to Children's Hospital to be examined, Lance's attorney ran down to the hospital (at night) and convinced the hospital social worker and the doctor (before Lance was examined) that the child was involved in a custody battle between David and Ayn, and that every time Lance got a little bruise, Ayn "cried wolf." He never talked with Lance's social worker— because he didn't want to hear what she had to say.

My son David worked full-time for eight years for an office furniture liquidating company. He was the manager. His boss testified in court that David had been doing well and had not gotten into a fist fight at work for over a year.

Even though David had a steady job, and made more money than his sister Ayn, he never supported Lance or his son by Eve Wingfield, Calvin. Eve collected welfare from the time Calvin was born (January 1991) up through the first six months after she moved in with David (through August 1994).

Taxpaying voters will find it hard to believe that millions of federal dollars are given to this state (California) each year in the name of family reunification. It would be one thing if the money went for the care and protection of children, but the award of this money appears to be contingent on the "reunification" of children with their biological parents, even if they have never lived with the parent before in their life.

Lance never lived with his father before the age of 23 months. There was nothing there to "reunify." Taxpayer dollars paid for David's attorney, his parenting classes, his drug and alcohol rehab program, the weekly counseling the judge ordered so he could deal with his violence issue, his bus pass, and even MeliCal for Lance while he lived with his father. I know this is not how taxpayers want their money spent!

It is outrageous that our taxes are paying for the perks and rehabilitation of a person like David. He is a sociopath, who not only can't be rehabilitated, he is proud of his lifestyle. He has never felt remorse for the harm he has caused people throughout his life.

Because David went to his parenting classes, passed 7 out of the 10 drug tests he was given in 1993, attended counseling, and claimed to "love his son", do we give him a defenseless small child to see how well he does.

This was not an experiment. We were dealing with a human life here. And it was ***Lance's life!*** Lance was an incredibly intelligent, articulate, and contented little boy. He could have been anything he wanted to be. But the court decided his life did not belong to him. It belonged to his father.

If you had a plane load of babies crash, there would be a tremendous amount of publicity. The public would demand blood, and a great deal of federal resources would be spent to prevent it from happening again. Just compare this hypothetical example to the reality of what statistics prove is actually happening to our children.

Lance's story was not just the latest sensational case. It is characteristic of a system that does not work. The emphasis is currently on protecting the biological parents and their rights at the expense of the dependent child. It is unconscionable to treat children as chattel.

I have survived what most people cannot possibly comprehend. The two people my mother, my aunt and uncle, and I loved the most in this world did not survive. The entire system, which is supposed to be set up for the benefit of the child, failed Lance miserably.

I firmly believe most people in this country would rather see a drug-addictive and/or violent adult, who is incapable of providing for a child, lose their rights than to see the child lose his life.

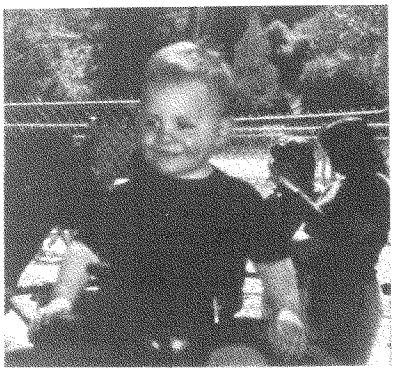
I would have been 3 years old on September 11, 1995. On April 6th, I was beaten to death because a judge decided not to remove me from my biological father's unsafe home and refused to have an expert find out if I was "clumsy" like my daddy and his girlfriend said I was. An expert could have looked at all the photographs of my injuries that took place when I lived with my father and his girlfriend during a 5-1/2 month trial visit before the judge gave daddy custody. On January 10, 1996, my daddy's girlfriend received a ten year sentence for murdering me; she will be out of prison in less than five years.

I died because of family reunification and the confidentiality laws in children's courts. I had a safe, loving home with "Mommy Ayn" (my paternal aunt) and my grandma, and an extended family during the first 23 months of my short life, and I was so happy!

Will you do anything to keep this from happening to other children? I miss Mommy Ayn and my grandma.

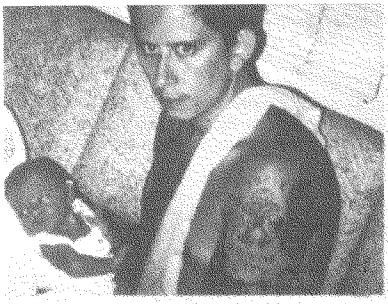
LANCE HELMS

LANCE HELMS - riding a pony 4/13/94



AYN and LANCE - Nov. 1995

David Helms & Baby Lance - 9/16/92



3 photographs of Lance's injuries while living with his father, David Helms

WRITTEN STATEMENT ON BEHALF OF JUSTICE FOR CHILDREN
TO THE
SUBCOMMITTEE ON HUMAN RESOURCES
ON WAYS AND MEANS
RELATED TO
THE ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980 (P.L. 96-272)

Comments by Randy Burton
President, Justice For Children
412 Main St., Suite 400
Houston, Texas 77002
713-225-4357

June 27, 1996

INTRODUCTION

Mr. Chairman and members, my name is Randy Burton. I am an attorney, a former prosecutor in Houston, Harris County, Texas, and the founder of the national child advocacy organization known as Justice For Children.

In a 1991 New York Time's Editorial entitled "Cradle to Grave", Anna Quindlen chronicled the short, tortured existence of Adam Mann, beaten to death in March of 1990 by his parents for eating a piece of cake. In her article, Quindlen lamented Adam's preventable death:

> "From the moment he was born and held in protective custody in the hospital nursery, Adam . . . would be part of the city's vast child welfare system . . . an agency that has historically served its citizens as poorly as any in the City of New York . . ."
>
> "Who failed Adam Mann? A system that obviously needs a massive overhaul and independent oversight. A system that explains its failures to no one when its client's die."

"Who killed Adam Mann? And did anyone learn anything from his death within the system that so grievously failed him."

The answer, tragically, is that the system learned nothing from Adam's death. It is equally true that we as a community failed Adam because we did nothing to fundamentally change a child welfare system which systematically returns known victims of abuse to unsafe homes rather than terminating parental rights.

And because of the failure our child welfare system, children such as 6 year old Elisa Izquierdo of New York continue to be murdered. If the facts and the problems identified by Anna Quindlen in the Adam Mann case sound hauntingly familiar, it is because they are. Although Lt. Luis Gonzalez stated that Elisa's death was the worst case of child abuse he had seen in 22 years of service, Elisa's abuse was almost indistinguishable from the trauma inflicted on Adam in 1990.

Like Adam, Elisa was removed form her mother at birth and placed in "protective custody" only to be reunited with her abusive mother two years later. According to published accounts, over the following four years, no less than four reports of abuse or neglect were made to child welfare by relatives and school officials with no apparent results. Like Adam, at the time of her death, little Elisa's body revealed a history of brutal physical abuse. Elisa may also have been sexually abused.

Unfortunately, the problems with so-called "children's protective services" (CPS) in New York City are no different than those found in other parts of our country. Indeed, the entire national child welfare system is seriously flawed and incapable of fixing itself. In order to better protect victims of child abuse and neglect, we need to understand the underlying reasons why our governmental agencies have historically failed these children. Only then can we stop this nonsensical cycle of death and move towards real, meaningful child protection.

Having reviewed numerous child fatalities, Justice For Children believes that these preventable child deaths are not merely the result of incompetent caseworkers or excessive caseloads, but rather the direct and predictable consequence of a social service delivery system that places a higher priority on preservation of the family unit and rehabilitation of the offender than on protection of the child.

To understand why CPS continues to embrace a rigid policy of family preservation -- despite compelling evidence of the failure of counseling to turn child abusers into loving parents -- one must understand the issue of funding. A significant portion of each state's CPS' budget comes from our federal government in the form of matching funds with the requirement that child welfare agencies demonstrate they have made "reasonable efforts" to prevent the removal

of children from their homes! Even if Congress succeeds in cutting these federal strings by block-granting child welfare funds to the states, this would not remove the family-preservation policies now well entrenched in state agencies and codified in state laws.

Also important to understanding our national failure to protect abused children is the fact that we treat crimes against children differently from all other crimes. Only in instances of crimes against children does our law enforcement establishment allow CPS, a social service agency lacking law enforcement status and prerogatives, to receive the initial report of abuse, perform the initial investigation of the crime, and dictate the progress of the criminal case despite caseworkers' lack of law enforcement training and experience. And, because CPS is the inlet point for virtually all child abuse complaints, its efforts affect all the other downstream legal entities with a legitimate interest in the child's case; namely, the police, the District Attorney's office, and the criminal and civil courts. Thus, the misplaced priorities of CPS become the de facto priorities of the entire system.

The social cost of this failed policy can be measured in the lives of countless children in CPS's care. On both a local and a national level, 42% of all children who die from abuse or neglect were victims previously known to CPS. Almost half of all children who are identified as abused or neglected do not receive any follow-up assistance from CPS. Further, studies indicate that the child who survives an abusive environment is the future runaway, drug addict, or child abuser often filling space in our state prisons.

Justice For Children believes that advocacy for children's rights must not be left to an agency that maintains a repressive and scientifically unproven view that it is more harmful to the to child to remove the child from the family than to leave the child in the abusive home. This policy is a throwback to the notion that family violence is a "family problem" to be solved by the family and not the police.

In order to repair this failed system, me must, therefore, collectively reorient our thinking about child abuse. Child abuse, in any form, is a crime and should be treated as such. This can only be accomplished by giving law enforcement, not CPS, exclusive authority for the receipt and investigation of child abuse complaints. When used effectively, law enforcement invariably results in segregating the abuser from the child.

It should also be obvious that the victim of child abuse, not the abuser, must be our top priority. Elisa Izquierdo was victimized first by a family member and was revictimized by the system designed to protect her. Elisa, like so many abuse and neglected children who have been placed in and out of foster care, deserved the right to live with a safe and loving family rather than being the ultimate victim of a failed social experiment.

This Subcommittee has a wonderful opportunity to ensure that our government be responsive to the victims of child abuse, not the abusers, through increased child protection and termination of the parental rights of child abusers. If we do not take advantage of this opportunity, the images of murdered children will periodically remind us, like clockwork, of the urgency for reform.

A list of Justice For Children's proposed federal legislation is attached for your consideration.

Thank you.

JUSTICE FOR CHILDREN

440 Louisiana, Suite 350
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July 8, 1996

POSITION STATEMENT REGARDING
LEGISLATIVE PROPOSALS

The following is a preliminary list of the various legislative proposals for Justice For Children. This list is intended only for discussion and does not represent an exclusive list of legislative goals. Please note that this list is not prioritized.

FEDERAL LEGISLATION

1. All reports of child abuse must be made directly to an appropriated local law enforcement agency.

   Comment: As it is now, if someone calls their local police department to report a suspected case of child abuse, the local police department will refer that call to Children's Protective Services ("CPS"), an agency without law enforcement training.

2. Establish a clear legal duty on behalf of Children's Protective Services ("CPS") and CPS case worker to protect the child as the goal of their civil investigation.

   Comment: Currently, the primary goal of CPS is preservation of the "family unit", no matter how unhealthy. This is reinforced by a federal financial incentive (P/L 96-272) which provides matching funds to CPS if they can demonstrate reasonable efforts to prevent the removal of children from their homes.

3. Provide for periodic independent management reviews of CPS including the authority to audit files, determine accountability for financial and operational performances and forward findings to a reporting point independent of the other entities involved in the child abuse network. Performance should be measured against goal of protection of children, not preservation of the family unit.

   Comment: Necessary requirements for accountability. Currently, no entity with oversight authority for CPS knows where the money goes, nor whether funds are being spent to the best use for children.

4. Modify the existing funding authority of CPS so that there is an independent mechanism for funding contracts for family treatment, medical services, etc, other than through local CPS.

   Comment: Would eliminate obvious conflicts of interest problem and allow better, independent delivery of services to children.

5. Establish an "outcry statute" under the Federal Rules of Evidence for use in civil dependency cases involving child abuse.

Comment: This would allow an adult to testify to the initial outcry of abuse by a child in a civil setting.

6. Eliminate the competency requirement for child witnesses or establish a presumption of competency of witnesses regardless of age under Federal Rules of Evidence.

   Comment: Currently, children under the age of 4 are virtually presumed incompetent to testify making it "open season" on small children. Their testimony should be heard, but it should be up to a jury to determine proper weight.

7. Support modifications to the existing video tape law so that it will pass constitutional requirements in both the civil and criminal courts.

   Comment: Videotape statements by children are an important tool to minimize contact between an abused child and the accused abuser in a courtroom to minimize the number of interviews of an abused child.

8. Modify the Federal Rules of Evidence to allow videotaped interviews of children under a certain age for use in the Family Court.

   Comment: Videotape statements by children are an important tool to minimize contact between an abused child and the accused abuser in a courtroom.

9. Establish a clear time limit (twelve months) as to how long a child can be in "limbo" in the foster care system (tied to federal funding) before parental rights are terminated or permanently modified.

   Comment: As in the Gregory K. case, a child should not be kept in the foster care system indefinitely. If the family cannot be rehabilitated, parental rights should be terminated and the child should be eligible for adoption.

10. CPS case workers must be provided with specialized training to distinguish between those cases which justify attempts to reunite the family and those whose particulars mandate termination.

    Comment: Caseworkers receive inadequate training, period. Although they perform the de facto criminal investigation, they lack the investigative tools to collect the necessary evidence for both the criminal and civil cases.

11. Guidelines should be developed using expert models for investigative decision-making in cases of suspected abuse.

    Comment: Although there are a few expert models in existence, their use is very limited, do not into account any of the evidentiary requirements for criminal cases, and are not interactive, providing instant feedback to the investigator making a decision on behalf of the child.

12. Guidelines and training should be developed for investigation of child abuse for use by CPS, police, and prosecutors.

    Comment: Lacking specialized training and guidelines, investigators often use improper techniques when investigating child abuse. For example, if a child is improperly interviewed, this can effect admissibility of any outcry of abuse by the child and taint the civil and criminal cases.

13. Make child abuse a "bias" crime entitling child victims to use their abusers for civil rights violations under federal civil rights laws similar to Title 42 §1983 cause of action created for women under the Violence Against Women Act.

    Comment: Currently child abuse victims and their advocates have difficulty relying upon the criminal court system to punish perpetrators.

14. Require all state and federal agencies to keep detailed records on child abuse fatalities, child abuse investigations and convictions and to provide this data to a central national source for compilation.

    Comment: Because state's currently lack a uniform method for keeping statistics on child abuse, it is difficult to evaluate trends and to hold agencies accountable for their actions.

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July 9, 1996

Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Attention: Honorable E. Clay Shaw, Jr.

Ref: Hearing on Barries to Adoption 06/27/96

Dear Honorable Shaw:

This will be a very condensed version of a story that could full a thick, small printed, novel with shameful details of the torment, and violation of basic human rights that the children of unfit parents have suffered because of our current laws. Similiar stories can be documented by millions of grandparents and caregivers in this Country. It is happening in every community, culture and economic group; no family is immune and the problem is growing.

From 1990 to 1992 my husband and I made every attempt to protect, first one grandson, and then two from the neglect and abuse they were suffering at the hands of their drug addicted parents. When the situation would become extreme and we felt that the neglect and abuse must be documented, we would call the Florida Abuse Registary and make a report. We reported the parents three times. First, for dropping the children off at our home and not picking them up for three weeks. Then we were advised that the parents were taking drugs in front of their children. Two witnesses reported this to the Registary. The third time the Mother left the two boys ages, 9 months and 2 years, in the care of a 17 year old brain damaged boy and he beat the 9 month old with a belt. The baby was hospitized for 4 days and the local HRS was notified. We called the Registary also. The first two reports were decared unfounded by the Jacksonville HRS, and the other case was unfounded by the Orlando HRS. We had to wait until a third boy was born cocaine depended before the Florida HRS in Fort Landerdale took action, and removed the boys from parental care.

By this time the oldest boy (J.P.) age three, had spend the first year of his life with his biological parents living in a camper shell in a junk yard. When we received custody of the children, the court's papers indicated that numerous

reports to the Florida Abuse Registry began while the child lived in the camper shell. The next 2 years of his life were spend, living with his Mother and her boy friend (our son) in a car, tent, a crack house, and sometimes a motel room, or briefly in an apartment. He and his baby brother were taken to stand with the Mother and her boyfriend, near intersections holding signs begging for donations for food, so they would get their drug money.

I wish that your committee could hear some of the stories that our oldest grandson remembers about his life before he came to live with us, or could have seen the physical condition of the two older boys when they came, even after being in Foster care for 12 days. We are thankful that they managed to survive. We certainly can not thank the HRS in this State for protecting them from years of abuse and neglect. Likewise, we can not thank the lawmakers of this State and Country who mandate laws that do not protect our children. However, we do thank God when their little arms hug us because if it had not been for Him, we would be visiting their grave sites instead of watching them grow and develope. There are thousands of grandparents and caregivers that can not be hugged because the child is too handicapped from abuse and hundreds that do visit the child's grave.

On June 10, 1992 we received three little boys, 3, 13 months and a new born. No one can imagine the anquish we went through watching our infant grandson jerking and crying for as much as nineteen straight hours from drug withdrawal. Today that same infant is 4 years old. His case with County Health has been closed. He can print his name, has started to read, and plays games on a computor. His older brother who would wake up 6-8 times a night screaming, has not had a nightmare in over 6 months, and J.P. who could not talk ,does not stop talking. In spite of what they have gone through they are happy, wonderfully adjusted little boys.

For the next eighteen months after we were award custody, we hoped that the parents would get their life together and be able to regain custody and provide a decend home for the children. We did everything we could to help them but after 18 months and many difficult and dangerous incidents with the couple we realized that they were as bad, if not worse, as they were when the boys were removed. After two years we requested that the case be transferred to Jacksonville, Duval County, from Fort Landerdale, Boward County, and we then hired an Attorney and also requested a Guardian at Litum. At the end of two and a half years we decided on a second

Welfare Case Plan and gave the couple an additional year to straighten up before we would proceed for adoption. Our Attorney then advised us to become licensed foster parents.

Following the 1 year Welfare Plan, the couple still had not cleaned up their act. We requested that the boys go into the foster care program under our care, so the adoption process could begin. HRS refused to proceed along those lines and wanted to close our case, which meant that 1, 5, or 10 years from now the the parents could come back and take custody. We certainly had not planned on raising children in our golden years, but we want permanence for the boys, and we want to get on with our lives. HRS said Foster was out because they were our grandchildren. I requested that the oldest boy (J.P.) be placed in foster care. They could not deny that request because he is not a biological grandson. They reversed their decision and said they would place all 3 boys in foster care for immediate adoption by us. What a shame that we have to play these little games after such a length of time. Of course HRS did say, when we were refused the first time, that we could pay the legal fees for Termitation of Rights and adoption, if that is what we wanted. Our Attorney advised us that the cost could go as high as $35,000 if we encounted problems with the parents. We receive $1896.00 a year from the State to raise three boys, my husband and I will have to work well past retirement age, to support these children, and then the State expects us to pay added legal fees. Something is terribly wrong with the picture.

The HRS agreed to place the boys in foster care in March. It is now July and HRS notified the parents and relatives of our desire to adopt. Certified receipts of these notifications have been received from all parties, for a month, and no one has responsed. Now HRS has decided that the Daytona, HRS, where Mother is living, must seek out and assist her. As of July 18,1996 it will be 1 year since she has seen or talked to her sons. We have now had the youngest boy all of his life, and the other two well over half of their lives.

I believe in Parental Rights and I believe we should protect those rights. However, there needs to be a line between the rights of a fit parent, and where the rights of an unfit parent ends. Why is our government spending billions of dollars to reunify families that never were families in the first instance and allowing the children to suffer in the process? The children that are placed under Protective Services and foster care are made to wait an unreasonable

length of time to be placed for adoption. These children deserve to have permanance in a stable, loving home. It seems like their only birth right is to be abused, first by their parents and then by our laws.

At this point in our case if I had to explain to the boys the true facts of what they can expect I would have to say. "When your daddy and mommy think they might want to play parent, they will be taking you away. You will have to leave. I know your mommy is a stranger to you, but she gave you life and you are her property. I know you are too young to understand what "bondage" means, but the laws of this country have placed you in "bondage." You are the property of your parents and when they want their property back they will go to court and the court will give you back to them. If you were a house or a piece of land and they did not pay the taxes, the house or land would be taken away from them. You are human beings and are not that lucky. Mommy and daddy can take you to a different state. A state that will not let papa and mom visit with you. Especially you J.P., because you are not biological. Then we may never see you again. If that does happen, remember we will always be here waiting for you to find us on your own. If you do find us, please don't tell us about the emotional pain you had to deal with. Our hearts have been broken too many times and it would be too painful to bear. We were helpless to prevent mommy or daddy from taking you. When you become adults and have children of your own, you may be dysfunctional and unable to parent your own children. Don't feel guilty - the Social Service System of this Country will have done its job. We live in a country where there is "Liberty and Justice For All." "All" means adults that vote and voice their opinion. It does not mean "children." Children are owned by their biological, unfit parents."

In closing, please, take note, and help our grandsons, and the millions of other children like them. They must have the opportunity to become decend adults, citizens with values amd morles who will help uphold our laws and be proud to pledge alligance to the United State.

Sincerely,

Eileen Olson

Eileen Olson

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