



NLWJC - Kagan

DPC - Box 067 - Folder-007

Child Welfare-New Policy

Document

Copy to Bruce
(from Elena)

EK —
This is the document
Olivia's so afraid of.

BR



HOGAN_L @ A1
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Record Type: Record

To: REED_B @ A1@CD@LNGTWY

cc: Elena Kagan, Nicole R. Rabner, RASCO_C @ A1@CD@LNGTWY, DRYE_E @ A1@CD@LNGTWY

Subject: child welfare, decision needed

Bruce,

For the past six months, Carol, Jeremy and I had been pulling together a comprehensive policy document on child welfare reform. You saw an early version of it when we had the meeting in Carol's office with OMB. We consulted over 40 experts as we created the document. Since then, it has been quite fleshed out and includes several specific regulatory and statutory changes. We vetted it with three key child welfare experts and received their comments.

We had planned to distribute it to key agency and White House folks.

I'd like to finish it up quickly, run it past you and Elena, and distribute it to HHS, First Lady's office, etc. so HHS takes the suggestions into consideration as they move to meet the requirements of the adoption directive.

HHS is moving very quickly on the adoption directive, so I need to get this to them as soon as possible.

What do you think?

~~Ask Lynn -
what are we?~~

Bruce -

Apparently the Carol/Jeremy/
Lyn approach differs significantly
from the approach HHS would
take. I asked Lyn to write
us a short memo explaining
the differences and recommending
a proposed course of action.
Then we can figure out whether
we want to make anything
of this.

OK?

Elena

CHILD WELFARE REFORM CHALLENGES

Establish New Federal Goals for Child Welfare: Safety and Permanency

Challenge: The system's present focus on family preservation/reunification sometimes leads to children being placed in unsafe situations and to children remaining in foster care when reunification is neither appropriate nor possible. Safety and permanency should be the goals of the child welfare system. Family reunification should be one option available under these goals.

Encourage Adoption and Other Permanency Options Such as Subsidized Guardianship

Challenge: Barriers to adoption leave adoptable children in foster care too long, preventing children from having a safe, permanent home. Federal action can help increase adoptions and other permanency options, including subsidized guardianship, for waiting children in the foster care system.

Improve the Court Process Through Federal Leadership

Challenge: The judicial system is not adequately equipped or organized to deal with the flow of foster care and adoption cases in a way that fully emphasizes safety and permanency in a timely fashion. The Federal government should consider taking a leadership role in court improvement.

Restructure Federal Funding of the Child Welfare System To Create Incentives To Measure and Meet Federal Goals and Spend Dollars Wisely

Challenge: Current funding structures create the wrong incentives, for example rewarding foster care over adoption, and encouraging process instead of results. Consequently, money is wasted, system goals are unclear, and, most important, children and families are not well served. The Federal government must restructure funding to create incentives for states to measure and meet system goals and to efficiently and cost-effectively deliver services.

Restructure Transition To Independence Programs for Children Who Age Out of the Foster Care System

Challenge: At 18, foster children "age-out" of the foster care system, often without adequate preparation or arrangements for independent living. Federal funds for independent living are available, but funds are insufficient and programs inadequate. Often foster kids transitioning into independent living end up on welfare and/or homeless. The Federal government should consider guaranteeing this small population (about 20,000 nationally) basic necessities including a home, education, food, and clothing.

Improve Training & Professionalism in Child Welfare and Related Disciplines

Challenge: Currently, available training for caseworkers, and interdisciplinary training for others who interact regularly with the child welfare system, is inadequate. Further, professionalism and standards in the social work profession are lacking. Federal leadership could encourage the private sector to create better professional standards for caseworkers, and to expand successful training programs.

Address the Role of Substance Abuse and Mental Health in Child Welfare

Challenge: Studies indicate that up to 60 percent of foster children suffer from moderate to severe mental health problems. Further, surveys indicate that alcohol and drug abuse is a serious problem for between 1/3 and 2/3 of families in the child welfare system. The Federal government should acknowledge these interconnections and address them accordingly.

Improve and Expand Federally Funded Prevention Efforts

Challenge: The child welfare system continues to disproportionately spend dollars addressing abuse once it occurs, rather than on preventing the initial abuse. A reformed child welfare system must support *targeted*, coordinated, community-based prevention efforts that work, and start them early enough to prevent abuse and neglect from occurring *before* it is brought to the attention of the state.

Launch a Public Education Campaign on Child Welfare Issues

Challenge: While mandated reporting of abuse and neglect has improved, the public is still wholly unaware of the deficiencies in the system and the number of substantiated abuse and neglect reports that go without services every year. Public knowledgeable about child welfare issues will help solve the problems.

Action Steps for Reform

I. Establish New Federal Goals for Child Welfare: Safety and Permanency

Amend and strengthen the 1980 P.L. 96-272, the Adoption Assistance and Child Welfare Act of 1980, and later amendments to P.L. 96-272, as well as the 1974 P.L. 93-247, the Child Abuse and Prevention and Treatment Act (CAPTA), and the Family Preservation and Support Program in OBRA 1993.

A) *Establish Safety*

- Draft a simple statement of legislative intent indicating that the first priority in all child welfare decision-making is child safety. Reinforce this three ways:
 - Specifically state that reasonable efforts do not include efforts that place a child in danger;
 - During hearings, require those involved (judges, hearing officers, child abuse workers) to make specific statements of fact which indicate how the child will be safe in family preservation or reunification decision-making;
 - Lawyers and guardians ad litem argue ONLY for decisions that are consistent with child safety (not necessarily the wishes of the child which, a majority of the time, are reunification regardless of the home situation).
- Amend OBRA '93, the Family Preservation and Support Program, so that the plan requirements include the following:
 - Clarify that the first priority is always child safety;
 - Careful risk assessment to exclude dangerous families;
 - A high level of in-home visitation to supervise children's safety;
 - A comprehensive range of services to increase families' capacities to protect their children;
 - Partnerships with communities.
- Amend title IV-E state plan requirements to include:
 - Minimal standards for in-home visitation;
 - Forensic pediatric examination for sexually and physically 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 caregivers and child abuse workers.

B) Establish Permanency

- Amend P.L. 96-272 to reject unreasonable efforts by recognizing that there are classes of parents for whom reasonable efforts and family preservation and reunification are inherently unreasonable, including:
 - Parents who kill or maim children;
 - Parents who aggressively sexually assault children;
 - Parents who have histories of violent criminal behavior;
 - Parents who abandon children in life-threatening circumstances; and
 - Parents with long-term and chronic addictions.
- Require reasonable efforts for legal permanency:
 - Amend P.L. 96-272 to acknowledge that children have a compelling need to have permanent homes for life and require reasonable efforts be made to achieve legal permanency.
- Amend P.L. 96-272 to prohibit children under the age of six years to remain in long-term care with foster parents who are unwilling or unable to adopt.
- Amend P.L. 96-272 to change the term "dispositional hearing" to "permanency planning hearings", shorten the period between a child's entry into foster and his or her first dispositional hearing from 18 months to one year, followed six weeks later with either reunification and permanency proceedings.
- Amend P.L. 96-272 to prevent numerous foster care placements.

II. Encourage Adoption and Other Permanency Options

- Develop an action plan to double the number of adoptions or other permanent placements out of the foster care system by the year 2002, including offering technical assistance and guidance to the states from the Federal government.
- Once family reunification is deemed not possible, require states to move without delay to terminate parental rights, or, when not possible, create a permanency option. State court systems must tight time standards for addressing permanency after the dispositional hearing.
- Develop a strategy to aggressively implement the Multi-Ethnic Placement Act.
- Offer states technical assistance to aggressively pursue adoptions for special needs children.

- Amend title IV-E of the Social Security Act to allow title IV-E foster care payment funds to support subsidized permanent kinship care, and emphasize various forms of subsidized guardianship/kinship care as permanency options when adoption is not possible.
- Implement demonstration projects, and study their results, to allow IV-E funds to subsidize permanent guardianship, whether or not it is a kinship placement.
- Set national goals to increase the number of children who are adopted annually and offer monetary per-child bonuses to states for each child adopted over the state goal.
- Prepare a monograph for states on subsidized guardianship as a permanency option when adoption isn't possible.

III. Improve the Court Process Through Federal Leadership

The Federal government should undertake a systematic look at court practices around the country, develop a consensus on court improvements, and court evaluation, and offer states technical assistance to implement the improvement.

- Amend federal law to entitle every child to be safe and protected from abuse and neglect (as discussed earlier in point IA).
- Require all parties in Juvenile Court proceedings to be responsible for child safety.
- Use the Presidential bully pulpit to strongly encourage states to implement the following court reforms already working in some venues:
 - 1) Enact strict time schedules for the completion of all stages of court proceedings including shelter care, trial, reviews, and the termination of parental rights;
 - 2) Keep tight hearing schedules and adhere to those schedules;
 - 3) Set reasonable judicial caseloads that allow realistic scheduling;
 - 4) Implement same judge/same case procedure, creating individual judicial calendars so the same judge keeps a case from start to finish;
 - 5) Require child abuse and neglect practitioners -- judges and lawyers -- to be experts in family and juvenile law and, for those states that don't have them, put in place a family court, and;
 - 6) Encourage the court system to collaborate and plan with other involved organizations.
- Increase Federal grant money for expansion of interdisciplinary training involving Judges and other court personnel -- expand or model after the National Council of Juvenile and Family Court Judges training program.

IV. Restructure Federal Funding of the Child Welfare System To Create Incentives To Measure and Meet Federal Goals and Spend Dollars Wisely

Financial incentives should encourage rapid movement to permanent placement rather than lengthy stays in foster care, and should reward success when states meet the system goals. We should also explore the application of managed care principles.

- Structure financial incentives to encourage rapid movement to permanent placement rather than lengthy stays in foster care.
- Study the application of managed care to child welfare and encourage states with waiver authority to apply managed care principles to their reform efforts.
- Collect data on the results of the Federal Family Preservation funds spent since the program inception in 1993, and determine how to improve cost-effectiveness and success.

V. Improve the Transition To Independent Living Programs for Emancipated Foster Youth (Population is about 20,000 nationwide)

- Declare national goals for children who must become independent after aging out of foster care. Amend title IV-E state plan requirements to include the following goals:
 - A place to live;
 - Opportunity to continue education;
 - Life skills training;
 - Employment or continued income until employment is secured;
 - Access to health care;
 - Adequate clothing;
 - Availability of key records and documents including birth certificates, driver's license, foster care and health history, etc., and;
 - Ties to community mentors.
- Encourage states to develop employment, housing, and scholarship opportunities for emancipating foster youth by requiring state IV-E plans to specify how they will target local, state, federal and private sector employment, housing and scholarships for higher education opportunities for the emancipated foster youth.
- Amend Federal law to lower the age for participation in the Independent Living Program from 16 to 14 years of age to allow us to engage youth earlier in preparation for this transition into independent living.

- Amend the Higher Education Act to require colleges and universities receiving Federal aid to evaluate their outreach to and retention of former foster youth, and to ensure that these youth are identified and informed of existing Extended Opportunity Programs and Services. (Higher Education Act reauthorization is coming up.)

VI. Improve Training & Professionalism in the Child Welfare Field and Related Disciplines

- Increase Federal grant money for expansion of interdisciplinary training for Judges and other court personnel -- expand or model after the National Council of Juvenile and Family Court Judges training program in Reno, NV and the CIVITAS program in Chicago, IL.
- Create incentives within child welfare laws for training and professionalism.
- Offer guidance and encouragement to the private sector to create an accreditation and certification process for the profession.

VII. Address the Role of Substance Abuse and Mental Health in Child Welfare

- Encourage states to offer coordinated, wrap-around services addressing all aspects of family health including substance abuse and mental health.
- Use existing training funds for interdisciplinary training on the role of substance abuse and mental illness in child abuse and neglect.

VIII. Improve and Expand Federally Funded Prevention Efforts

- Encourage family preservation and support services aimed at keeping families together when services and/or programs have proven track records.
- Evaluate family preservation expenditures to date, evaluate results attained from funds, and make recommendations to improve the programs, and expand efforts for longer-term prevention including early intervention.
- Improve and expand data collection.
- Make available to states technical assistance and guidance for the following activities:
 1. Effective targeting of family preservation;
 2. Implement family preservation services across systems, and;
 3. Disseminate information to states, when available, about effective service models and states' results from using those models.

IX. Increase Public Awareness About Child Abuse and Neglect, the Foster Care System, Adoption and Other Permanency Options

- Develop and lead a public awareness campaign, including use of public service announcements, print materials and the internet, on child abuse and neglect, foster care, subsidized guardianship, and adoption.
- Appropriate Federal funds for such a national campaign.