

Child welfare

THE WHITE HOUSE
WASHINGTON

April 29, 1996

MEMORANDUM FOR THE FIRST LADY

FROM: CAROL H. RASCO *CJR*
Assistant to the President for Domestic Policy

Subject: Child Welfare

I continue to be seriously concerned about the state of our child welfare programs across the nation. While it would not be wise to announce major initiatives about some pieces of the problem during an election year, I am over the next several months going to be working with appropriate persons inside and outside government on a potential package for early 1997. Certainly, however, proposals concerning foster care and adoption might emerge which could be discussed publicly in the coming months.

I will be convening a number of small group discussions starting with HHS personnel, progressing to a group of individuals from other departments such as Education, Justice, etc. which deal with the "fallout" from the systems' failures. I hope to then visit with Foundation officers where major, innovative projects have been carried out, as well as individuals in national organizations focusing on this issue. Finally I will also visit with individuals from local/state programs showing promise as well as representatives from those programs under siege and/or court order. All of these sessions will be information gathering in nature.

If you have individuals or organizations you feel I should contact please do let me know. I of course welcome the opportunity to visit with you at any time on this matter.

Thank you.

BRIEFING BOOK MEMO

April 30, 1996
8:30 - 9:30 a.m.
Carol Rasco's office

Bruce -
FMI re
8:30 meeting
tomorrow.
Diana

FROM: Diana Fortuna

SUBJECT: HHS Child Welfare Waivers

PARTICIPANTS: HHS: Mary Jo Bane, Olivia Golden, Carol Williams, John Monahan;
White House: Ken Apfel and Lester Cash, OMB; Lawton Jordan,
Intergovernmental; also invited are Jen Klein and Bruce Reed

PURPOSE: To learn about HHS's review of 13 pending child welfare waivers and its process for awarding the statutory limit of 10 waivers. Attached are HHS's briefing materials.

AGENDA: HHS will walk us through what they have been doing, and we should raise any questions we may have.

BACKGROUND: In 1994, Congress created a new special waiver authority for HHS to allow up to 10 states to conduct cost-neutral demonstrations. After HHS issued guidance to states on this last year, 14 states sent in applications last fall. (Minnesota has since dropped out.) They are Oregon, Delaware, DC, North Carolina, Georgia, Ohio, New York, Indiana, Illinois, California, Michigan, West Virginia, and Maryland. Florida wants to apply even though the deadline has passed.

HHS expects to award Delaware the first waiver within the next few weeks; Illinois and Indiana are fairly far along. HHS is attempting to discourage West Virginia about its application.

The most common thing that states have proposed to do is shift dollars from foster care to family preservation, on the theory that the investment will pay off in terms of foster care dollars saved in the long run. Other ideas include "subsidized guardianship", a new status in between foster care and adoption; managed care (New York and Ohio); block grants (Michigan and California); and tying funding to outcomes (North Carolina).

ISSUES:

HHS is considering approving fewer than 10 of the 13 applications received, because they are not certain that 10 merit approval. The alternative they are considering is to accept 6-8 and then solicit proposals for a second round.

OMB may have a problem with several of the states, which did not propose to use random assignment for evaluation purposes.

QUESTIONS FOR CONSIDERATION:

What policies should HHS test? Are we taking full advantage of this opportunity?

How will HHS handle the requests for block grants?

What is an appropriate way to test managed care? (This has been controversial in New York, where the Mayor has been accused to using managed care to cut reimbursement. HHS appears interested in Ohio's application, however.)



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 800
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

April 29, 1996

TO: Carol H. Rasco
Assistant to the President
for Domestic Policy

FROM: Assistant Secretary
for Children and Families

SUBJECT: Child Welfare Waivers -- Briefing

Bruce - FYI.

- Diana

BACKGROUND - CHILD WELFARE WAIVERS

On October 31, 1994, the President signed Public Law 103-432 which, among other things, authorized the Secretary of HHS to permit as many as ten States to conduct child welfare demonstration projects by making most provisions of Parts B and E of title IV of the Social Security Act subject to waiver. These are the sections of the Act which govern foster care, adoption assistance, independent living, child welfare services, and family preservation and support.

Child welfare waivers are required by statute to be cost neutral, to be consistent with the purposes of the basic child welfare legislation, and to have an independent evaluation. Certain protections for children in foster care and their families may not be waived, and eligibility for benefits may not be impaired. The waivers are limited to five years.

The purposes of the waivers include testing State-designed approaches to reforming child welfare services, encouraging innovation, and gaining experience with alternative methods of funding and administering child welfare services. The lessons of these demonstration projects are expected to be beneficial for other States, other social services programs, and national policymakers.

Fourteen States submitted waiver proposals in response to a formal Announcement which appeared in the Federal Register on June 15, 1995. One State has since withdrawn from consideration. The waiver proposals involve a number of themes, among them:

- using title IV-E funds for services and for prevention, rather than for out-of-home care;
- providing subsidies for guardianships for certain children now in long-term foster care;

- encouraging kinship placements;
- adapting managed care techniques to the provision of child welfare services;
- devolving child welfare responsibility and decision-making from the State to a county or local level; and
- developing more community-based services for children and families, and more family-like and community-based placement capacity for children.

The States under consideration are California, Delaware, the District of Columbia, Georgia, Illinois, Indiana, Maryland, Michigan, New York, North Carolina, Ohio, Oregon and West Virginia. One State, Minnesota, dropped out. Summaries of the fourteen proposals were published for public comment in the Federal Register of September 7, 1995.

We have received over 50 comments from the public in response to our publication in the Federal Register of summaries of the State proposals. Commentors included advocates, foster parents, and county officials. The Children's Bureau conducted a series of initial conference calls with all of the States, for a preliminary discussion of the proposals and to gather additional information. Following that, Issue Papers were developed for each State, which outline matters the Department wishes to discuss in more detail. States are invited to set their own timeframes for responding to the Issue Papers, and for scheduling follow-up discussions. The table at Tab A shows the status of Issue Papers and State responses.

It is not yet known whether ten of these thirteen pending proposals will be approved. Sixteen other States have indicated some degree of interest in a child welfare waiver demonstration project.

In California, the Los Angeles County Department of Children's Services has written to the White House expressing strong disagreement with the State's proposal to devolve child welfare responsibility (both programmatic and fiscal) to the counties. California is presently revising its proposal, partly in response to the Department's Issue Paper, which identified the local concerns.

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Child welfare waivers will not involve the level of dollars that are involved in AFDC and Medicaid waivers, nor will they, in most cases, affect nearly as many children or families.

THE BROADER CHILD WELFARE REFORM CONTEXT

The child welfare system is experiencing considerable stress, and the need for change is broadly recognized. States need federal support in their efforts to reform the way in which services are designed and delivered. The Department's goal is to create a service delivery approach that is focused on safety, permanency and the well being of children; that is family focused and provides a continuum of services; and that is inclusive in the planning and delivery of services.

In addition to waivers, other key strategies in moving child welfare reform forward are:

- the development of an outcomes focus for child welfare systems;
- reactivating the joint planning process with States through implementation of Family Preservation and Support legislation;
- revising the Department's approach to monitoring, to stress outcomes, self-assessment, federal/State partnership and program improvement;
- development of an adoption strategic plan to increase the focus on permanency;
- working with courts to improve the timeliness and quality of decision making; and
- improving the collection and use of data through support of advanced technology.

DISCUSSION

These waivers provide the Department with the capacity to enter into active partnership with some States to implement and evaluate promising alternatives, and to test new approaches to child welfare practice and administration.

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The child welfare waiver proposals raise a number of substantive issues, among them:

- How to assure protection of children and quality of services;
- How to guarantee that children and families are not deprived of services to which they are entitled;
- How to handle the waiver proposals where systems are especially fragile (DC) or challenged (NY);
- How to handle evaluations of statewide projects; and
- How to assure cost neutrality, especially if it is necessary to rely on projections of State entitlements.

The first child welfare waiver proposal which will be ready for approval is Delaware's. Draft Waiver Terms and Conditions are now being reviewed by Delaware officials. Delaware is proposing two separate child welfare demonstration projects: one statewide component to test the use of substance abuse counseling and treatment for parents as a means of reducing or removing the need to place children in foster care; and a limited component (up to 10 children) that would test assisted guardianship for certain children in foster care who cannot be placed for adoption.



Mary Jo Bane

Attachments:

Tab A - Statutory Authority

Tab B - Waiver Announcement - Federal Register, June 15, 1995

Tab C - Summary of Proposals Received - Federal Register,
September 7, 1995

Tab D - Status of Child Welfare waivers - Table

cc: Kevin Thurm

Tab A

HR5252, portion thereof...

SEC. 202. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301-1320b-13) is amended by inserting after section 11265 the following:

"demonstration projects

"Sec. 1129. (a) In General.--The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

"(b) Waiver Authority.--The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive--

"(1) any provision of section 427 (as in effect before April 1, 1996), section 422(b)(9) (as in effect after such date), or section 479; or

"(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

"(c) Treatment as Program Expenditures.--For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

"(d) Duration of Demonstration.--A demonstration project under this section may be conducted for not more than 5 years.

"(e) Application.--Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes--

"(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

"(2) a statement of the period during which the proposed project would be conducted;

"(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

"(4) an estimate of the costs or savings of the proposed project;

"(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

"(6) a description of the proposed evaluation design; and

"(7) such additional information as the Secretary may require.

"(f) Evaluations: Report.--Each State authorized to conduct a demonstration project under this section shall--

"(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the secretary which provides for--

"(A) comparison of methods of service delivery under the project, and such methods under a State plan

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or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

“(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

“(C) any other information that the Secretary may require; and

“(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

“(g) Cost Neutrality.--The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.”

Child Welfare Waivers -- STATUS As of: Apr. 12, 1996

ISSUE PAPERS

DECISION PROCESS

<u>State</u>	<u>In HHS/ OMB Rev.</u>	<u>Sent to State</u>	<u>State Response</u>	<u>Dis- cussion</u>	<u>Terms & Cond'ns</u>	<u>Approval Package</u>
DE	X	X	in	held 2/28	in State review	being assembled
IL	X	X	in	held 4/12		
NY	X	X				
NC	X	X				
WV	X					
IN	X	X	in	held 3/20	in State review	
CA	X		will reply in Apr.			
OH	X	X	in	held 4/2	being drafted	
MI	X	X	in, in draft			
GA	X					
DC	X					
MD	X	X				
OR	X	X	in	held 3/18	partial draft in ACF review	

APR-18-1996 10:37

Appendix I

This is a list of program ideas that have been suggested by States or others in response to the Department's requests for suggestions. They are listed only as a means of outlining, for States interested in proposing a child welfare waiver demonstration project, the broad range of possible demonstrations that the Department would consider. Whether these sample ideas would be cost-neutral would depend, of course, on how a State proposes to implement them. Similarly, the method of implementation could affect whether a waiver demonstration project would meet the statutory requirement that it not "impair the entitlement of any qualified child or family to benefits under a State" title IV-E Plan.

This list should not be regarded as limiting a State in any way in conceiving demonstration ideas.

- * To meet the need for specialized foster care, and to reduce the amount spent on institutional care, train AFDC recipients or other low income persons to be professional, paid foster parents for specialized foster home placements; ensure appropriate licensing and possibly provide housing subsidies or homeownership assistance to assure the stability of the specialized foster home as a long-term resource.
- * Broaden the use of title IV-E to fund services for children, their parents, and foster families, and to fund preventive services for families at risk, with the expectation that total time in out-of-home care would be reduced, and in some cases foster placements could be avoided.
- * Provide better services at lower cost by, where appropriate, returning children, especially adolescents, from out-of-State institutional placements. Such a demonstration might include both foster care youth and youth who are in the juvenile justice system. The expectation is that placing them in community-based specialized family foster homes, or community-based group homes, will reduce the total time in out-of-home care.
- * Provide subsidized guardianship or other arrangements which would allow children to stay or be placed in a familial setting that is more cost-effective than continuing them in foster care.
- * For older adolescents in independent living, allow title IV-E funds to be used for the cost of an apartment for a period of time before the youth leaves foster care, and a short period thereafter, to achieve more stable placements for youth.
- * Expand the availability of in-home respite care for foster families, with the expectation that administrative costs, including the costs of recruiting foster families, will be controlled, and more stable placements will result in shortened stays in out-of-home care.
- * Provide State-funded parental visitation for parents whose children are in institutional care, including the costs of telephone calls, transportation, and other expenses associated with maintaining or improving contact. The expectation is that more contact between parents/families and children in care can shorten stays in institutional placements.
- * Enter into agreements with private providers to test a managed care concept, with clearly specified and measurable outcomes to be achieved for each family, at a fixed cost negotiated in advance, with the expectation that fiscal incentives would produce a better result with no increase in cost.
- * Enter into agreements with Indian Tribes to permit full access to all aspects of title IV-E funding, with the expectation that services for tribal children and families will improve, while State costs of providing or managing those services will decline.
- * Where court processes are unduly delaying adoptions, enter into agreements with courts to fund adoption-related work as if it were an administrative cost under title IV-E, with the expectation that the courts would then be able to speed adoptions, producing

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permanency for children earlier, and reducing foster care and case management costs.

* Seek a waiver of some provision(s) of title IV-A (AFDC), possibly in combination with a title IV-E or IV-B waiver, which might help achieve child welfare objectives. For example, a waiver which allowed a State to continue AFDC payments (in whole or in part) for a period of time, for a family from which the children had been removed, but where reunification is the goal and the loss of AFDC benefits would likely result in homelessness, thus frustrating reunification efforts.

Tab D

Delaware Child Welfare Waiver Demonstration Project

The proposal has two essential components aimed at ensuring permanency for children. The first component employs a multi-disciplinary team composed of treatment social workers and substance abuse counselors. The second component will support children who are placed in supported guardianship is transferred in situations where adoption is not possible and an identified family has made a long-term commitment to the child.

The State has seen a rise in the number of children entering foster care over the last 3 years, due largely to parental substance abuse. Through the use of multi-disciplinary teams, treatment will be provided to families experiencing both substance abuse and child abuse and neglect, thus providing services to children who would otherwise be entering foster care. Title IV-E funds normally used for foster care will be directed to pay for the cost of treatment services.

The goal of the demonstration project is to prevent or delay entry of children into foster care or reduce the time in out-of-home care in 50% of the families receiving services under the project.

The State premise is that the multi-disciplinary treatment project would improve the quality of services provided to families receiving services and improve outcomes for children under its protection. It has been extremely difficult for the State to provide effective services to families with active addiction. Social workers spend a great deal of time trying to connect families with substance abuse agencies, only to have the treatment agency discharge clients because of lack of commitment to treatment. Substance abuse counselors would have the expertise to more accurately assess the seriousness of the problem, make referrals to the most appropriate service and agency, help the social worker confront the family's denial of the problem, assist the social worker in court intervention when necessary and where able, reduce the impact of parental addiction on children.

Under the supportive guardianship component, the State will utilize title IV-E funds to provide financial subsidies in support of children who are placed in guardianship in situations where adoption is not possible and an identified family has made a long-term commitment to the child. Adding guardianship to the permanency continuum which includes adoption and long-term foster care broadens the options available to children and families. Guardianship will enable the family to assume the parental role without ongoing agency oversight but the family will have the ability to return to the agency for services as needed. The

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child's case will be removed from the foster care review system, saving time and money for the family, the agency, and the court system. The State contends this change will better serve the children and youth involved. Children and caretaking guardians will be freed of the burdensome State review system and the degree of intrusiveness currently existing. They will receive ongoing financial assistance and other services will be available as needed. Children who are older and/or positively connected to parents or kin will be able to maintain those birth ties. Guardianship will not replace adoption where it is appropriate. Long-term foster care placement with agreement will remain an option where guardianship is not possible.

TAB B

[SUMMARIES OF STATE CHILD WELFARE WAIVER PROPOSALS,
AS PUBLISHED IN THE FEDERAL REGISTER FOR COMMENT 9-7-95]

STATE: CALIFORNIA

DESCRIPTION: California proposes to extend, and broaden to include the use of federal funds, a planned State Partnership Demonstration Project that will provide direct funding to counties for the implementation of child welfare services. Participating counties would receive from the State a single allocation of funds for family and children's services, rather than using categorical funding streams.

The project would enhance the counties' abilities: to meet families' needs more comprehensively; to increase the focus on outcomes; to provide additional in-home services which will result in less need for out of home care; and to contain costs.

The State anticipates that enhanced flexibility in the use of federal funds, reduced administrative requirements and a new "outcome-oriented oversight role" will improve outcomes for children and families, including more effective prevention services that will reduce the need for out of home care. The State is particularly interested in promoting a whole family foster care program and long term options for children in kinship care.

The State proposes, potentially, to waive a large number of statutory (and regulatory) provisions, which would be based on negotiations among federal, State and local child welfare services officials regarding specific local waiver proposals. For each of many statutory provisions, the state proposes conditionally to "request waiver of this section to the extent necessary to implement the proposed demonstration project." Statutory items include certain title IV-E State plan requirements, title IV-E income eligibility requirements, statutory definitions (including definitions of eligible facilities), requirements regarding adoption assistance payments, required statistical reports, and Independent Living Program eligibility requirements. Regulatory items proposed for waiver include limitation on the sources of state match, cost allocation plan requirements, general grant administration requirements, fiscal regulations, the State allotment determination formula, payment review and facility licensing standards, and regulations regarding the withholding of federal funds.

CONTACT PERSON: Marjorie Kelly, Deputy Director
Children and Families Services Division
California Department of Social Services,
744 P Street M.S. 19073
Sacramento, CA 95814
(916) 657-2614, (916) 653-1695 (FAX)

STATE: DISTRICT OF COLUMBIA

DESCRIPTION: The District of Columbia proposes to develop a community-based therapeutic model of services to serve as an alternative to placing children in more restrictive institutional settings, as well as providing a transitional bridge for those children returning to the community upon discharge from institutional care.

The flexible use of title IV-E and IV-B funds would allow for the development and provision of a community-based model of therapeutic services to prevent foster home and institutional placement and would increase inter/intra agency and multi-system coordination of services.

The demonstration project would include the use of a "managed care" approach through the use of rate setting procedures to include articulated caps, and a system to provide comprehensive multi-system social and support services. The community-based therapeutic approach would include specialized emergency foster care homes; shared family care; in-home treatment; use of professional surrogate parents; and substance abuse treatment services.

The District of Columbia proposes title IV-E waivers to allow payment for services, and to permit the support of alternatives to foster home and institutional placement through use of a rate-setting process to be established under the demonstration project.

CONTACT PERSON: Ricardo Lyles
Acting Administrator
Family Services Administration
District of Columbia Department of
Human Services
609 H Street, N.E.
Washington, D.C. 20002
(202) 724-8756
(202) 727-9460 (FAX)

STATE: GEORGIA

DESCRIPTION: Georgia proposes to use title IV-E funds to fund preventive and supportive services for children and families at risk, to eliminate the need for placement or reduce the time a child spends in out of home care. Additionally, Georgia seeks to place children in neighborhood settings; provide specialized living arrangements for adolescents, and obtain special adoption assistance to expedite the placement of children into adoptive homes.

The benefits for this demonstration project include removing systems barriers, decreasing or avoiding the amount of time a child spends in out of home care, providing more stable placements, expanding preventive and family support service systems and increasing adoptive placements by making resources available to adoptive families that otherwise would not qualify.

The services to be provided under the demonstration project include family support and prevention services, expansion of kinship care, and community placement services.

Georgia proposes to expand title IV-E coverage to include placement prevention and reunification services. The State also wishes to waive some provisions of title IV-E eligibility determination when a child comes into custody, provide a special waiver to provide adoption assistance to pay for the purchase of services to expedite adoptive placement, and provide funds for adoptive parents for one-time expenses related to the placement of a specific child in the home. Georgia also seeks a waiver to permit title IV-E funds to support a kinship care assistance subsidy, and a waiver of some provisions of title IV-A to allow families whose children are in foster care to continue receiving food stamps, when reunification is expected to occur within 180 days.

CONTACT PERSON: Doris Walker
Foster Care Unit Chief
Georgia Department of Human Resources
Division of Family and Children Services
Two Peachtree Street, N.W., Suite 12-300
Atlanta, GA 30303-3180
(404) 657-3458
(404) 657-3415 (FAX)

STATE: ILLINOIS

DESCRIPTION: Illinois is proposing a subsidized private guardianship as a permanency planning option which would meet the needs of the long-term kinship care population, in order to reduce the number of children in long-term foster care and to reduce the number of disrupted placements.

Illinois seeks to improve permanency outcomes for children in healthy kinship care arrangements in cases where reunification and adoption are not possible. The demonstration project would reduce government intrusion in family life while creating support and clinical management systems which minimize risk through annual reviews of subsidized private guardianship and continuous promotion of adoption options.

Illinois would provide a subsidized private guardianship program (which parallels the adoption subsidy program) for a random group of eligible caregivers.

The State proposes a waiver of title IV-E to permit withholding subsidized guardianship from a randomly selected control group; a waiver of certain provisions of the Adoption Assistance Program to authorize subsidized guardianship for children who meet the eligibility requirements of Section 673 and additional requirements set by the State, in order to authorize payment of nonrecurring guardianship expenses, and for guardianship assistance payments for children; a waiver of eligibility requirements to limit assistance to special needs children; a waiver that would permit federal financial participation in amounts expended as guardianship support payments pursuant to guardianship assistance agreements; and a waiver to authorize federal financial participation in amounts expended on training and administration for the subsidized guardianship program and a waiver of the provision defining "adoption agreement" to allow that term to include "guardianship assistance agreement."

CONTACT PERSON: Joe Loftus
Executive Deputy Director
Illinois Department of Children and
and Family Services
100 West Randolph, 6th Floor
Chicago, IL. 60601
(312) 814-8741
(312) 814-6859 (FAX)

STATE: INDIANA

DESCRIPTION: Indiana proposes to divert per diem funds from restrictive (primarily institutional) placements to more community-based services in order to create more home-based in-state placements for children, placements which would be more supportive of family unity.

The effort would result in fewer high cost, out of state child placements; fewer removals from home, and earlier reunification; improved family functioning; expeditious adoptions; timely transitions to independent living; and improved outcomes for children.

Indiana would modify existing interagency agreements between the Division of Family and Children Services and juvenile court judges to include community partners such as mental health, education and the Step Ahead Council. The local office of Family and Children Services, the county probation office, community mental health center or the school corporation seeking placement of a child would convene a meeting of partners to develop alternatives to restrictive placement.

Indiana proposes to waive title IV-E to permit payment of proposed services: even when a child has not been judicially removed from the home; in order to prevent the placement of a child in, out of home care; and for the child in substitute care who is not categorically eligible for title IV-E foster care.

CONTACT PERSON: James Hmurovich
Director
Division of Family and Children
Family and Services Administration
Room W392, Government Center south
402 West Randolph Street
Indianapolis, IN 46204
(317) 232-4705
(317) 232-4490 (FAX)

STATE: MARYLAND

DESCRIPTION: Maryland proposes to add federal guardianship assistance as a permanency planning option which would more closely meet the needs of the kinship care population.

This effort would result in reduced average length of stay in out of home placement for children; increased stability for children, and empowerment/support for the caretaking family.

Under this demonstration project in order to be eligible a child would have to be committed to the local department of social services as a child in need of assistance and to have been in a successful out of home placement with the prospective guardian for a minimum of six months. Reunification and adoption would have to be appropriately ruled out as permanency planning options. Resources for the child (SSI, Social Security Survivor's Benefits, etc.) would be transferred to the guardian and deducted from the subsidy. Prospective guardians would be required to sign a guardianship agreement which would require annual renewal.

CONTACT PERSON: Fern Blake
Maryland Department of Human Resources
311 West Saratoga Street
Baltimore, MD 21201-3521
(410) 767-7269
(410) 333-0099 (FAX)

STATE: MICHIGAN

DESCRIPTION: Michigan proposes to increase its emphasis on family preservation and family support services and decrease the need for and reliance on out of home care by using title IV-E funds to provide services.

The effort would result in controlled growth of title IV-E maintenance expenditures; greater collaboration among federally-funded programs; increased ability to provide services for families; and decreased reliance on out of home care.

Michigan is proposing to treat title IV-E maintenance payments (other than those for adoption subsidy) as a capped entitlement. The State is proposing to use the funds for service provision, in some cases augmenting funds now being expended under title IV-B Subpart 1 (Child Welfare Services) and Subpart 2 (Family Preservation and Support). The funds would be used to expand grants to local communities and to implement family preservation and support services more quickly.

Michigan is proposing to waive those provisions of title IV-E which restrict States from expending these funds for the provision of services. Michigan excludes title IV-E adoption assistance from its waiver proposal.

CONTACT PERSON: David Berns
Director
Office of Children's Services
Michigan Department of Social Services
235 South Grand Avenue
P. O. Box 30037
Lansing, MI 48909
(517) 335-6159
(517) 241-7047 (FAX)

STATE: NEW YORK

DESCRIPTION: New York proposes to use a managed care approach to child welfare services to recapture revenue for reinvestment in preventive and aftercare services in local communities.

The benefits of this effort would be an accelerated decline in the foster care population; an increase in the level of services; and a reduction in the length of stay in foster care.

New York proposes to apply the principles of managed care to its foster care and adoption assistance programs by identifying preset payments for a range of services for a specified population over a predetermined period of time (capitated payments) and adjusting treatment regimens in light of outcomes so that the client receives the necessary services to continue to make progress toward the stated goals of intervention (care management). The State also proposes to increase the availability of child welfare services so that pre-placement preventive and aftercare services can be intensified.

New York proposes to waive: title IV-E requirements regarding the eligibility of children and of foster care facilities; the definition of "special needs" for which title IV-E funds may be used; the circumstances under which these funds may be claimed; and certain requirements concerning title IV-E administration and training.

CONTACT PERSON: Fred Wulczyn
Office of Family and Children Services
Division of Services and Community Development
New York State Department of Social Services
40 North Pearl Street
Albany, NY 12243-0001
(518) 486-3431
(518) 474-9004 (FAX)

STATE: NORTH CAROLINA

DESCRIPTION: North Carolina proposes outcome-based management of foster care, in which foster care funding is tied to specific outcomes related to diverting children from foster care whenever possible and moving quickly to achieve permanence for children.

The benefits from this demonstration effort would: link funding and outcomes and measure the effect on service delivery system performance; demonstrate and evaluate the effectiveness of a comprehensive outcome-based approach; decrease the amount of time children spend in foster care, reduce the number of new entries into foster care, and promote collaborative planning and coordination of services with several other initiatives currently underway in the State.

The proposed demonstration effort has two parts. Part I is designed to encourage the development of effective community-based reunification, adoption and aftercare services. Part II is designed to achieve a paradigm shift that allows local programs to move resources from treatment to prevention.

The waiver requests the use of title IV-E foster care funds on behalf of children not presently eligible: to allow local social service agencies to use a capitated rate structure with incentives for achieving specified outcomes; to allow local social service agencies to contract with public, private non-profit and private for profit entities as needed to develop an effective community network of services; and to allow participating agencies to reinvest savings realized from performance excellence in child welfare services.

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STATE: OHIO

DESCRIPTION: Ohio proposes to reduce child removals and/or time of children in placement and associated costs through the use of managed care technology to provide a broader array of services to children and their families.

The benefits of this effort would include decreasing placement costs, increasing the level and quality of services; strengthening local partnerships; and expediting the permanency planning process.

The proposed demonstration effort represents a partnership between public children's service agencies (PCSAs), the Ohio Department of Human Services (ODHS), and managed care entities (MCE). Decision making and risk will be shared among the PCSAs, ODHS and the MCE. ODHS's role is that of coordinator, facilitator and provider of training and technical assistance. The PCSAs' role is primarily as purchasers of services, and they may or may not provide all the direct service functions themselves. The MCE will be responsible for administrative and management functions, medical/clinical reviews, utilization management and service authorization, developing and operating a management information system, developing contracts with providers and payers, and consumer satisfaction-related duties.

The current system of services will continue but with managed care options being considered at decision making points. A policy consortium will be created to develop and implement policy and practices that support permanency planning and provide guidance to the local PCSAs. The terms and conditions developed by the Consortium will bind the provider agencies to uniformly implement the agreed upon practice criteria and to ensure consistency for evaluation purposes across the waiver sites.

Ohio proposes to waive a number of title IV-E provisions that relate to restrictions on child eligibility, and prohibitions on the use of title IV-E funds for the provision of services.

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STATE: OREGON

DESCRIPTION: Oregon proposes to use title IV-E funds for services including but not limited to prevention and support services, protective services, crisis intervention and reunification services. The State also proposes to develop a kinship foster care rate that would be individually determined based on the needs of the child.

The demonstration project would provide flexible funding for abused and neglected children and their families and/or caregivers to receive individual services, regardless of where the child is placed. Specific outcomes expected would include decreasing the length of foster care placement, increasing the number of children remaining safely in their homes, increasing the use of relative caretakers for children who must be placed out of the home, having more appropriate foster care resources and better utilization of community resources.

The proposed demonstration project would provide support to biological, foster and kinship caretakers through a myriad of services. The State proposes to shift toward a statewide system of in-home care services delivery, insure a match between the child's needs and the skill of the caretakers, establish mechanisms that will refocus the out of home care systems and move closer to implementation of a "first placement/only placement" objective for children who are unable to remain with their parent(s).

Oregon proposes to waive those provisions of title IV-E: that require a State to make foster care maintenance payments; that require that foster care maintenance payments be made only on behalf of a child who resides in a foster family home or a child care institution; and that concern the conditions for federal reimbursement for voluntary placements.

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STATE: WEST VIRGINIA

DESCRIPTION: West Virginia will create a comprehensive, decentralized, specialized system to determine a child's potential eligibility for all funding resources for child welfare programs.

The proposed system would maximize the State's child welfare funds by identifying and accessing additional financial resources available to children in care. The new system would emphasize parental obligation and encourage parental participation.

A resource development unit will be created to identify, pursue and produce accurate claims for all sources of funds to which a child in care may be entitled, e.g., child support, SSI, Black Lung, Railroad Retirement, third party medical, SSA, Veterans's Benefits and titles IV-A, IV-B and IV-E.

West Virginia is requesting a waiver of the title IV-E limit of fifty percent for Federal Financial Participation in a State's administrative costs.

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Opinion

The Children of Crack: A Status Report

Have the children of drug-addicted parents been forgotten?



Douglas J. Besharov is a resident scholar at the American Enterprise Institute for Public Policy Research, Washington, D.C.; a visiting professor at the School of Public Affairs, University of Maryland, College Park; and the editor of *When Drug Addicts Have Children: Reorienting Child Welfare's Response* (American Enterprise Institute and Child Welfare League of America, 1994). He was the first director of the National Center on Child Abuse and Neglect.

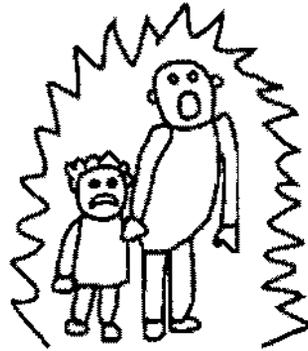
In the Fall 1989 issue of *PUBLIC WELFARE*, Doug Besharov authored an article entitled "The Children of Crack," in which he charged that "as a society, we seem tragically unable to do what is necessary to protect [the] vulnerable children" of parents addicted to crack cocaine. "Each day that we fail to take decisive protective action," he concluded then, "means suffering, even death, for thousands of children."

More than six years later, Besharov believes that, although the attention of child protection agencies and public welfare policymakers has shifted to other pressing child welfare issues, the tragedy of crack- and other drug-addicted parents continues for thousands of children throughout the United States.

Remember all the news stories about crack babies a few years back—about children being born with a host of serious physical problems and being brutally abused and horribly neglected by their drug-addicted parents? We do not hear much about such children anymore.

But, as anyone familiar with child protective caseloads knows, the tragic problem of drug-addicted parents continues to threaten the health and safety of large numbers of children. In 1994, between 30,000 and 65,000 children were exposed to cocaine in utero.¹ That's about the same number as in 1987.² The number of children in foster care, moreover, continues to rise—from about 276,000 children in 1985 to an estimated 462,000 in 1994, the last year for which there are statistics.³ (See Figure 1 on page 34.) And, of course, hundreds of thousands of other children remain in the care of

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The tragic problem of drug-addicted parents continues to threaten the health and safety of large numbers of children.

drug-addicted parents, where they are being raised under conditions of troubling inadequacy.

Hence, even if parental drug abuse is no longer news, child protective and child welfare programs across the nation continue to struggle with the problem. No one thinks that these programs are doing as well as they should. Too many children, for example, are left in the uncertain limbo of shifting foster care placements due to our inability—and, sometimes, unwillingness—to move them into permanent placements or to free them for adoption.

What Needs to Be Done

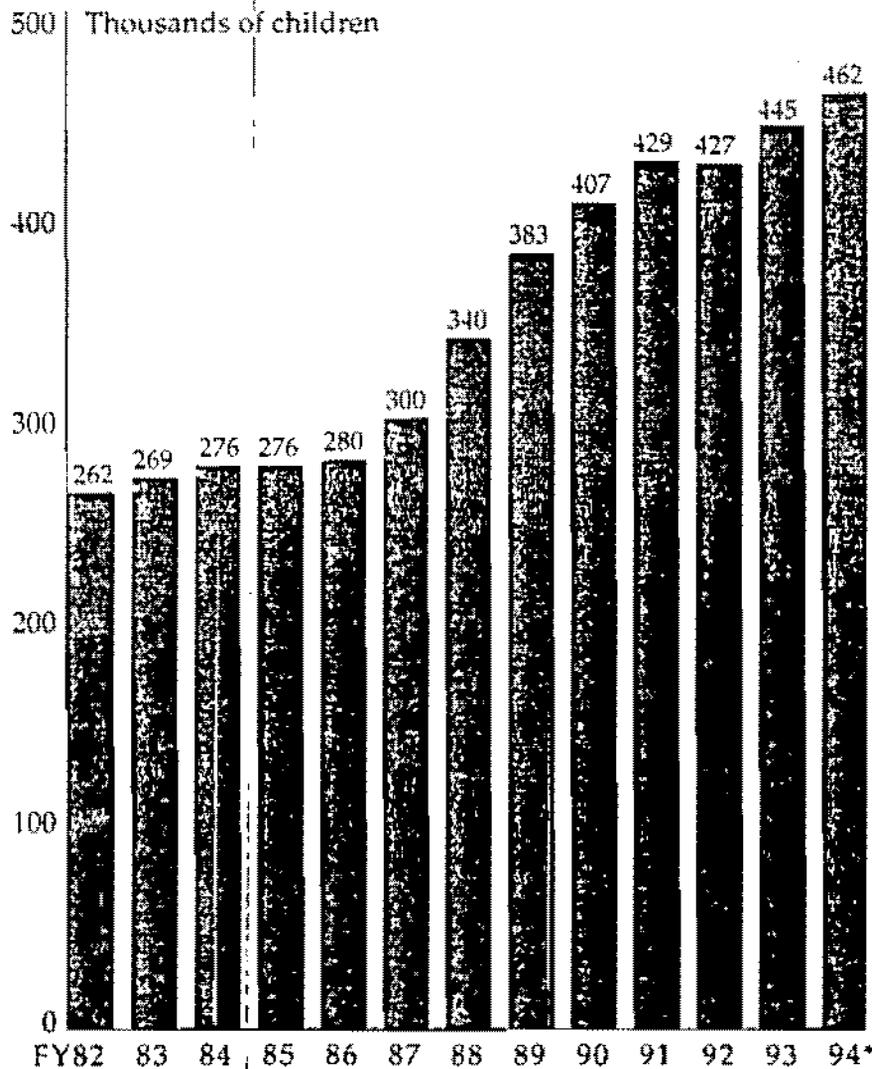
Concerned about improving services to this vulnerable population, 66 researchers, clinicians, program administrators, and government officials met at a four-day conference in Williamsburg, Virginia, in 1991, hosted by the American Enterprise Institute for Public Policy Research and cosponsored by the American Bar Association, the American Public Welfare Association, the U.S. Departments of Health and Human Services and Justice, and the U.S. Office of National Drug Control Policy. Twenty-eight papers presented at that conference were updated and published in 1994 in *When Drug Addicts Have Children: Reorienting Child Welfare's Response*.⁴

Although summarizing the views of such a large and multifaceted body of scholars and professionals is risky, one theme ran through the Williamsburg conference and is repeated in the book: If the children of drug addicts are to have a fair chance in life, we will have to be much more realistic about the problem and its likely solution.

Seven key principles emerged from the papers presented in Williamsburg:

Recognize that widespread parental drug addiction will continue to endanger children. After rising steadily during the 1980s, the number of frequent cocaine users has now stopped rising and appears to be beginning a period of slow decline. According to a recent RAND Corporation analysis, in 1993 about 1.7 million Americans were frequent users of cocaine, up from about 1.3 million in 1985; adding in heroin addicts raises the figure to over 2 million users. The RAND researchers estimate that by

Figure 1. Children in Foster Care



* Preliminary estimate

Source: American Public Welfare Association, *VCIS Research Notes*, August 1995

2004—a decade from now—there still will be at least 1.3 million addicts.⁵ (See Figure 2.)

Thus, notwithstanding the apparent small decline in drug addiction, hundreds of thousands of parents continue to be addicted to drugs. On their own, most true addicts simply cannot take adequate care of their children. Without societal intervention, their children are condemned to lives of

severe deprivation and, often, violent assault.

Assume that parental addiction to crack and other drugs will not be cured. According to Peter Reuter of RAND and the University of Maryland School of Public Affairs, "Drug treatment programs are not the primary source of the decline in drug addicts; in fact, they seem to have little impact on the size of the problem. Instead, there has been a

sharp decline in new users; not many people are taking up crack for the first time."⁶

What seems to be happening is that younger people in the neighborhoods have seen for themselves the way that crack wrecks people's lives and, as a result, are staying away from the drug. A similar process of social learning is what stopped the spread of heroin use in the late 1960s. Some specialists in the field regard the way that drug-taking spreads as a form of social contagion and describe this social learning as a form of social inoculation.

What about current addicts? Since treatment has only modest effects, most current addicts are expected to continue in their habits until they die or get too old for a life on drugs. That is what happened with heroin addicts. For example, a recent 24-year follow-up study of California narcotic addicts found that of 581 admitted to the California Civil Addict Program between 1962 and 1964, only about 25 percent had stopped using drugs and were not in jail.⁷ Of the remaining addicts, about 28 percent had died, about 19 percent tested positive for drugs, and about 5 percent refused to give urine specimens.⁸ With the exception of the mortality rate, which shot up dramatically between the first and second follow-up interviews, the sample demonstrated relatively stable patterns of drug use, incarceration, and participation in methadone treatment programs.

For the foreseeable future, therefore, even the best drug treatment programs should not be expected to do more than break patterns of crack use temporarily—because of the addictive qualities of the drug and the social factors that encourage addiction. That is why drug treatment professionals consider crack addiction to be a chronic, relapsing syndrome. So should child welfare professionals.

Provide intensive—and prolonged—child protective supervision. Many children of

addicts remain at home in their parents' custody. At present, child protective agencies provide only short-term services to these families, assuming that referrals to drug treatment programs will cure the parents' addiction. Since drug addiction, even if treated, is likely to be a long-term affliction, this short-term orientation is a grave mistake. Case planning should be based on the assumption that, for an extended period of time, the family will require regular home visits—perhaps from a newly created corps of case aides—and other services that include a continuing cooperative relationship with the drug treatment program.

Formalize kinship care programs. Members of the extended family can be an invaluable resource in efforts to treat the parents and as providers of substitute care. But, too often, children are placed with relatives

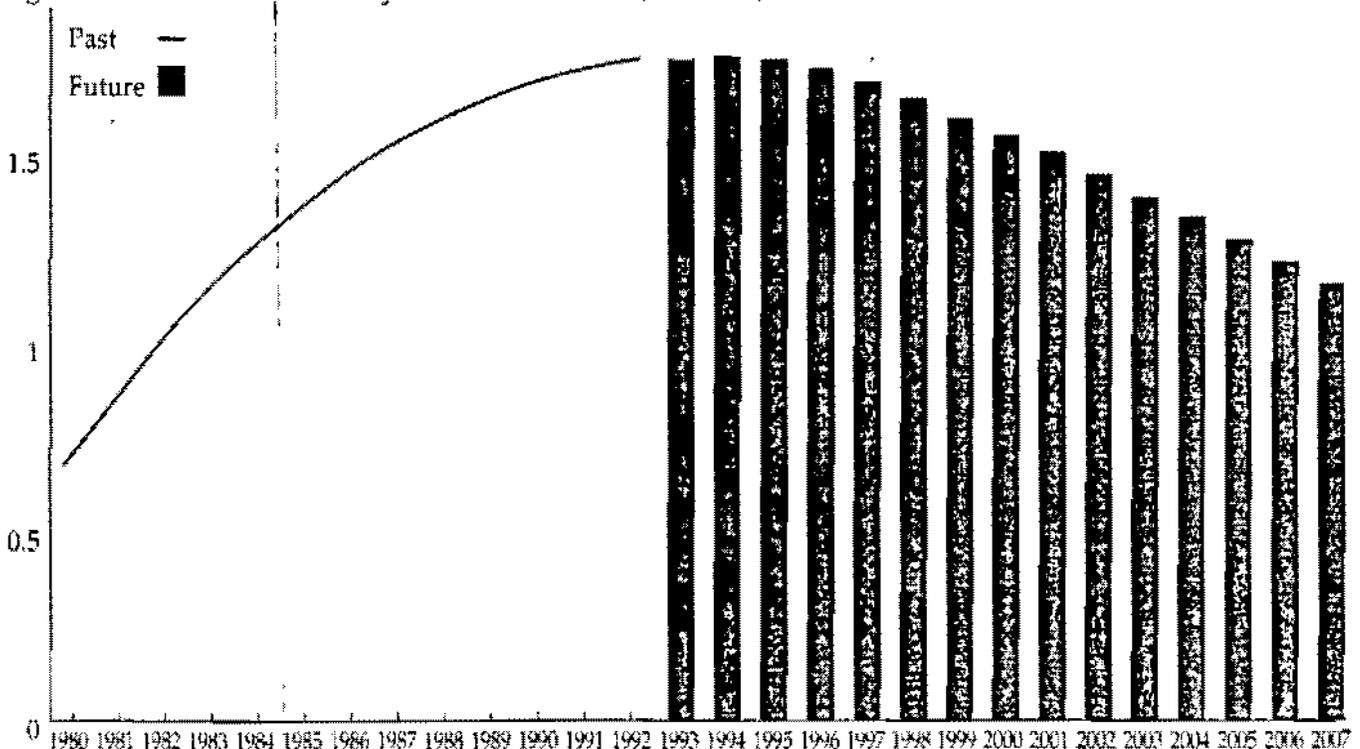
without due regard to their need for a stable and nurturing home environment. Although applying all the formalities of nonfamilial foster care to placements with relatives would be a mistake, child welfare policymakers should develop minimum standards for licensing, monitoring, and supporting such placements. In addition, the disparities in many states between kinship foster care payments and grants through Aid to Families with Dependent Children should be reduced to lessen the incentive to leave children in these temporary situations. This should be easier to accomplish under the new welfare block grant legislation. Child welfare agencies should also employ innovative legal mechanisms, such as permanent guardianship.

Increase adoptions, especially of abandoned infants. Child welfare agencies do a poor job of

identifying children who should be freed for adoption, because of negative attitudes toward the termination of parental rights, breakdowns in administration and decision-making, and current statutory provisions. The test should be the parents' demonstrable inability to care for their children, coupled with their unwillingness to accept or respond to a reasonable offer of drug treatment. Since termination should only be pursued when there is a reasonable likelihood of adoption, the focus should be on younger children, especially abandoned infants.

Create new, long-term substitute living arrangements that are stable and nurturing. Many children who are not appropriate candidates for adoption because they are older or have behavioral problems, and who cannot be placed with relatives because they have none or because

Figure 2. Prevalence of Heavy Cocaine Use: Past, Present, and Future*



* Projections based on 1993 calculations
Source: *Modelling the Demand for Cocaine*, RAND Corporation, 1994.

their relatives do not want to take them or have problems of their own, are likely to spend many years, if not their entire childhoods, in substitute care. These children are in desperate need of the kind of constancy and support that only secure home environments can provide. Among the possibilities are explicitly designated long-term family foster care homes, group homes, and larger residential care facilities. Various innovative legal arrangements, such as permanent guardianship, also should be used to obviate the inappropriate application of periodic foster care review requirements.

Make family planning a child welfare service. Most drug-addicted women would do much better if they had better control over their own fertility. How many times have we seen a drug-addicted mother's children taken from her, either all at once or one by one as they are born? Although some of these mothers want to have more children, many others do not—but their lifestyles, and the men in their lives, limit their ability to use contraceptives effectively. Family planning should be offered to clients automatically, just as parenting education is now. The aim should not be to coerce abstinence or contraception, but rather to help motivate clients to gain control over their own lives.

Advances in contraceptive technology may also help. Both Norplant and Depo-Provera provide protection against pregnancy without the need to use a contraceptive every time one has sex and without the woman needing to remember to take a pill every day. Unfortunately, however, unlike barrier forms of contraception, neither protects against sexually transmitted diseases.

The main obstacles to these and other reforms, however, are budgetary and conceptual. Ironically, it is the second that probably poses the bigger challenge.



In a horribly distorted sense, we already have long-term services. We open a case on a family and we close it, and we open another one on the same family and we close it again, year after year, generation after generation.

Fiscal Limitations

Because of the tight financial situation of most state and local governments, this is a difficult time for child welfare agencies. In recent years, over 30 states have had such substantial budget deficits that they have cut or frozen child welfare spending. Cuts in services of 20 and 30 percent are all too common. At the same time, the problems that child welfare clients face have worsened. Aggravating the problems of drug and alcohol abuse are rising poverty rates. More clients live in violent, hurtful neighborhoods where powerful environmental forces add an extra obstacle to their doing better. These are the realities within which services must be planned and provided. They shape our understanding of what contemporary child welfare services

can—and cannot—accomplish.

It would be wrong to kid ourselves about long-term services being somehow cheaper than short-term services. Yet they are not as expensive or out of reach as is sometimes feared. The key lies in the structure and orientation of the services.

Cases involving parental drug addiction are characterized by patterns of repeated reports on the same family—made over the course of many years and often across generations. The best estimate is that, over time, the families in at least one-third of all substantiated cases are reported again.⁹ The cases in the other half, significantly, are not re-reported, suggesting that child protective intervention has an immediately beneficial impact on many families. In any event, in a horribly distorted sense, we already have long-term services. We open a case on a family and we close it, and we open another one on the same family and we close it again, year after year, generation after generation.

Hence, child welfare agencies often end up providing services to drug-involved families for many years. But there is a cost: More time is spent investigating the repeated reports than is spent trying to help the family with its problems. And, of course, there is neither the continuity of service nor the continued momentum of sustained therapeutic involvement so needed to achieve personal change.

I do not mean to suggest that keeping such cases open would result in vast savings. It seems clear, however, that we could achieve real efficiencies—as well as more effective services to clients—if we recognized that many drug-using parents will be reported again and again. Thus, a long-term approach to services would save investigative and administrative resources that could be better used for treatment services.

Other efficiencies also are possible. We could achieve considerable savings by reducing

the number of inappropriate reports of suspected child abuse and neglect.¹⁰ Better professional and public education about what should and should not be reported, and improved screening at intake hot lines, are needed here.

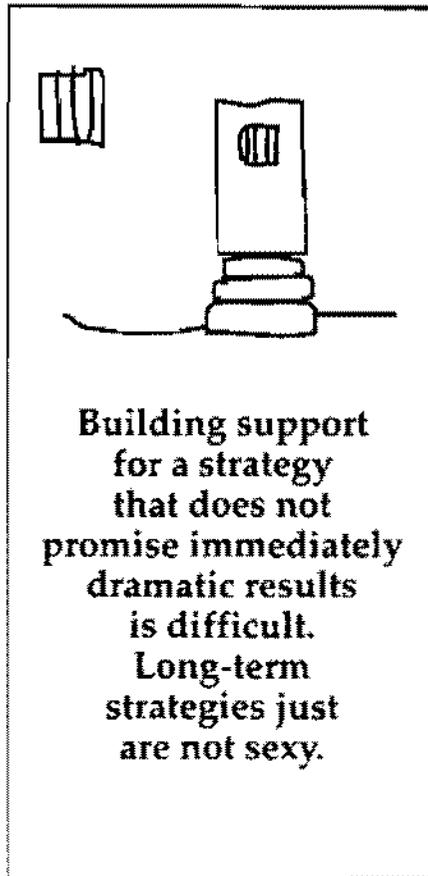
Thus, even in the current fiscal atmosphere, calling for an increase in the amount of long-term services available to the clients of child welfare agencies is not as quixotic as it might seem. Nevertheless, long-term services can be prohibitively expensive if agencies do not know how to turn off the service at some point. Clearly, some constraint on the amount of services provided would have to be imposed. Agencies would have to decide which services could be provided reasonably over the long term.

My own preference for the core of a long-term service strategy would be a modified version of a home-visitor service, an idea that C. Henry Kempe, a pioneer in efforts to combat child abuse, personally nurtured for many years. This concept was endorsed by the Federal Advisory Board on Child Abuse and Neglect and is being actively promoted by the National Committee to Prevent Child Abuse.¹¹ I say "modified" because I think that home visitors should be an adjunct to the standard package of child welfare—child protective services. In addition, agencies should attempt to recruit entry-level staff who have more in common with the families they are seeking to help—that is, staff who share social and economic backgrounds with their clients.

Thinking Long-Term

A larger barrier to developing long-term services, though, is conceptual and perhaps ideological in nature. Long-term services began to disappear long before the last recession. As a field and as a society, we do not like to think long-term.

Building support for a strategy that does not promise immediately



dramatic results is difficult. Long-term strategies just are not sexy. In fact, they require agencies to lower their programmatic sights from cure to stabilization. That simply is not an inspiring goal; it is hard to generate excitement for a program that, instead of promising to *cure* drug-related child abuse, seeks merely to *manage* it.

Working with drug-addicted parents and their children is not for the faint-hearted. Often, parents—and sometimes children—do not welcome intervention, however well-meaning. Instead, they can be unpleasant and even outright hostile to caseworkers and other helping professionals. Even when family members do want help, they can be frustratingly unable to keep appointments, let alone to follow through with treatment plans. Behavioral change, in other words, often comes slowly, if at all.

Finally, a long-term perspective on client needs raises many controversial and discomfiting issues. Family planning and contraception come immediately to mind. One need not agree with me about contraception to recognize how the issue is much more likely to arise during a long-term service relationship than in a brief one. That is the point. Making a real commitment to these families means trying to address their real and multiple needs, whether for education, job training, employment, or contraception.

Can these recommendations be adopted? Making it easier to terminate parental rights, for example, is sure to be controversial and may come about only with the active support of the disadvantaged communities most affected. Similarly, the restructuring of foster care into a long-term supportive environment will require a level of administrative commitment and capability that has too often been absent in foster care agencies.

The obstacles to adopting these recommendations are great, and there can be legitimate debate about their specifics. But if we are to meet the needs of the children of drug-addicted parents, we cannot avoid these issues. The continuing tragedy of drug-addicted parents and their suffering children imposes a moral duty to respond. To ignore their needs diminishes us all.

PW

See page 38 for notes and references.

NOTES AND REFERENCES

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MANY STATES FAIL TO MEET MANDATES ON CHILD WELFARE

A 'DICKENSIAN PICTURE'

Supervision by Courts Is Now Extensive as Abuse Cases Overwhelm Officials

By ROBERT PEAR

WASHINGTON, March 16 — At least 21 states are under court supervision because they failed to take proper care of children who had been abused or neglected, and many of them have flouted their obligations even after promising in legal settlements to protect the constitutional rights of foster children, court records show.

Judges across the country have found what Judge Thomas F. Hogan of Federal District Court here describes as "outrageous deficiencies" in child protection services.

Court records paint what another judge, in Illinois, describes as "a bleak and Dickensian picture." Child welfare officials in many states, swamped with work, are slow to investigate reports of child abuse and neglect. They often place children in unsafe or overcrowded foster homes and provide them inadequate medical care. They afford few of the social services needed to keep families together or reunify them. And they are delinquent in finding adoptive parents for children languishing in foster care.

Surveys by the Federal Department of Health and Human Services show that the annual number of abused or neglected children has more than doubled in the last decade, to 2.9 million from 1.4 million. The annual number seriously injured by abuse, the department says, has quadrupled, to 572,000 from 143,000.

New York Times

3/17/82

"Children are being hurt more often and more seriously," said Donna E. Shalala, the Secretary of Health and Human Services.

A Federal advisory committee said recently that abuse and neglect were the leading cause of death among children under 4 and accounted for 2,000 fatalities a year among children of all ages.

David S. Liederman, executive director of the Child Welfare League of America, a private group respected by children's advocates and state officials alike, said social workers were often handling 50 to 70 cases apiece. The league, whose standards are viewed as a benchmark, recommends no more than 15 cases a worker.

The Federal Government provides \$4 billion a year to the states for child protection services. The

Continued on Page 30, Column 3

Continued from Page 1

National Governors' Association recently urged Congress to let each state take its share as a lump sum, or block grant, with more freedom to decide how the money is spent. But the Clinton Administration says it would be foolish to reduce Federal supervision and enforcement, in view of the abysmal conditions brought to light in many lawsuits.

Martina A. Matthews, a law professor at the University of California at Los Angeles, cited several reasons for the increase in child abuse and neglect. Among them are the crack epidemic and an increase in economic hardship resulting from the failure of welfare benefits and the minimum wage to keep pace with inflation. Indeed, many states are now cutting cash assistance,

and as a result, she said, some families cannot afford necessities like shelter, fuel and warm clothing for their children, so that accusations of child neglect will probably increase.

Advocates for poor people say that stringent work requirements for welfare recipients may also increase child neglect if parents cannot find or afford child care.

Even states like Utah, which might seem far removed from the drug abuse and violence of big cities like New York and Chicago, have been targets of class-action lawsuits charging that they failed to care for children beaten or sexually abused by their parents.

Carol Clawson, the Solicitor General of Utah, said that "there were clearly problems" when the state was sued in 1994 by the National Center for Youth Law, a nonprofit law firm. Gov. Michael O. Leavitt agreed to settle the case six months after it was filed in Federal District Court. Under the settlement, he promised improvements in virtually every aspect of child welfare services. But an independent panel established under the agreement said last month that the state was flouting 53 of its 92 commitments, and lawyers for the plaintiffs said they would soon return to court to demand enforcement of the consent decree.

Mr. Leavitt, who has been in the forefront of Republican governors urging Congress to entrust the states with more responsibility, acknowledged that Utah had not fully complied with the decree. "The litigation has become a hindrance to our ability to fix the system, a diversion," he



David Scott/The New York Times

Jerome G. Miller, a court-appointed receiver given authority over the child welfare system in Washington, says he has been frustrated at every turn by "bureaucratic intransigence" of city employees.

said in an interview. "It's the single part of my job that I find most difficult. We are dealing with social trends we don't control."

Angela L. Adams, a lawyer at the New Mexico Department of Children, Youth and Families, said: "The use of litigation as a form of child welfare advocacy has become almost routine. Lawsuits have been filed or threatened in almost every state."

The cases are usually complex. The State of Illinois has retained the firm of Skadden, Arps, Slate, Meagher & Flom to defend state officials in a dozen child welfare cases. Martha C. Allen, a spokeswoman for the Illinois Department of Children and Family Services, said the agency had paid \$7.9 million to Skadden, Arps since 1983.

State responses to the suits vary widely. Some officials are cooperative and constructive, seeing the suits as an opportunity to make improvements and press state legislators for more money. Other states are slow to change and reluctant even to disclose the data needed to assess their performance.

In Alabama, conditions for abused

and neglected children have improved considerably as the state carries out a consent decree approved by a Federal district judge four years ago. Statewide, the number of children in foster care has declined 21 percent, to 3,650 from 4,625, since then. In the first counties carrying out the decree, the average time spent in foster care has declined to 100 days, from more than 300.

Paul Vincent, director of the Alabama Division of Family and Children's Services, said the state now provided extensive training to foster parents and caseworkers, who in the past received "little or no formal training." Ira A. Burnim of the Bazelton Center for Mental Health Law, who represents the Alabama children, agreed. "The kids are safer," he said. "Protective service workers are doing better jobs."

In Missouri, by contrast, Judge Dean Whipple of Federal District Court found state officials in contempt of court for failing to carry out a court-approved consent decree protecting foster children in the Kansas City area. The failure, he said, resulted from the officials' "lack of commitment to make a good-faith

One neglected child 'climbed into a trash can and asked to be thrown away.'

effort to make the consent decree work." After being cited for contempt, state officials agreed to a new consent decree in 1984, but a lawyer for the children, Fred Rich of Legal Aid of Western Missouri, says there has been "dismal compliance."

Gary J. Stangler, director of the Missouri Department of Social Services, said he did not dispute that assessment. "It's difficult to change the culture of an agency," he said. "This lawsuit has been a prod to state officials, but it has contributed to defiance as well as compliance. Any legislative body resents being forced to do this by the Federal courts."

And Jerome G. Miller, a court-appointed receiver given authority over the child welfare system here in Washington, said he had been frustrated at every turn by the "bureaucratic intransigence" of city employees. The nation's capital is in the midst of a budget crisis, but Judge Hogan, overseeing a vast child welfare case here, said that was no excuse because the city had failed to make the "minimal effort" needed to obtain large amounts of Federal money for abused and neglected children.

In New York City and State, child welfare agencies are operating under at least five court orders and consent decrees. In December, after years of piecemeal litigation, advocates for abused and neglected children filed a comprehensive lawsuit asserting that the city agency was in crisis and should be taken over by a court-appointed receiver.

Lawyers for foster children have been remarkably successful in establishing the children's legal rights, even though the victories do not always produce immediate improvements in the quality of care.

Children removed from the homes of their biological parents are deemed to be in state custody, whether they live in state institutions or with foster parents. Federal courts have repeatedly ruled that such children are protected by the 14th

Amendment, which says that no state shall "deprive any person of life, liberty or property without due process of law."

Courts often compare the rights of foster children to those of prison inmates and adults committed to mental hospitals against their will. Thus, Federal judges have ruled that foster children have a right to be protected against physical harm and psychological abuse, just as they have constitutional rights to food, shelter and medical care.

But courts have found countless violations of these rights. In the Washington case, a child identified as LaShawn A. told a child psychiatrist that her foster mother had beaten her. When the doctor asked who loved her, she replied, "No one." When he asked who hated her, she said her foster mother.

Another child, Kevin E., has been in the custody of the District of Columbia for 11 years, with no plan for adoption or psychiatric care. "He told the hospital staff that he hated himself," Judge Hogan found, "and he climbed into a trash can and asked to be thrown away."



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REMARKS: _____

United States Senate

WASHINGTON, DC 20510

March 26, 1996

Dear Colleague,

We wanted to share a copy of Robert Pear's compelling feature from the Sunday, March 17, 1996, New York Times about the difficulties states are having in meeting the needs of abused and neglected children.

As you will note from the article, at least 21 states are under court supervision because they failed to meet basic federal protections for abused and neglected children. Over the last decade the number of abused and neglected children has doubled. A recent GAO report on child welfare notes that:

"...Demands for child welfare services grew not only because the number of foster children increased but also because the families and children were more troubled and had more complex needs than in the past."

While called "child welfare," we believe it is vital to stress the fundamental differences between general Aid to Families with Dependent Children (AFDC) and the needs of our most vulnerable children who are at risk of abuse and neglect in their own homes. Such children have special needs, and we believe they deserve federal support and federal protection.

We hope that every Member will take the time to read this stirring piece and keep these facts in mind during the broader debates about welfare reform. Before taking any action in the area of child welfare, we should carefully consider potential effects on children and states.

Sincerely,


John H. Chafee


John D. Rockefeller IV

The New York Times

MANY STATES FAIL TO MEET MANDATES ON CHILD WELFARE

A 'DICKENSIAN PICTURE'

Supervision by Courts Is Now Extensive as Abuse Cases Overwhelm Officials

By ROBERT FEAR

WASHINGTON, March 18 — At least 21 states are under court supervision because they failed to take proper care of children who had been abused or neglected, and many of them have flouted their obligations even after promising to legal settlements to protect the constitutional rights of foster children, court records show.

Judges across the country have found what Judge Thomas F. Hogan of Federal District Court here describes as "outrageous deficiencies" in child protection services.

Court records paint what another judge, in Illinois, describes as "a bleak and Dickensian picture." Child welfare officials in many states, swamped with work, are slow to investigate reports of child abuse and neglect. They often place children in unsafe or overcrowded foster homes and provide them inadequate medical care. They afford few of the social services needed to keep families together or reunify them. And they are delinquent in finding adoptive parents for children languishing in foster care.

Surveys by the Federal Department of Health and Human Services show that the annual number of abused or neglected children has more than doubled in the last decade, to 2.9 million from 1.4 million. The annual number seriously injured by abuse, the department says, has quadrupled, to 572,000 from 143,000.

"Children are being hurt more often and more seriously," said Donna E. Shalala, the Secretary of Health and Human Services.

A Federal advisory committee said recently that abuse and neglect were the leading cause of death among children under 4 and accounted for 2,000 fatalities a year among children of all ages.

David S. Liederman, executive director of the Child Welfare League of America, a private group respected by children's advocates and state officials alike, said social workers were often handling 50 to 70 cases apiece. The league, whose standards are viewed as a benchmark, recommends no more than 15 cases a worker.

The Federal Government provides \$4 billion a year to the states for child protection services. The

Continued on Page 20, Column 2

Continued from Page 1

National Governors' Association recently urged Congress to let each state take its share as a lump sum, or block grant, with more freedom to decide how the money is spent. But the Clinton Administration says it would be foolish to reduce Federal supervision and enforcement, in view of the abysmal conditions brought to light in many lawsuits.

Martha A. Matthews, a law professor at the University of California at Los Angeles, cited several reasons for the increase in child abuse and neglect. Among them are the crack epidemic and an increase in economic hardship resulting from the failure of welfare benefits and the minimum wage to keep pace with inflation. Indeed, many states are now cutting cash assistance.

and as a result, she said, some families cannot afford necessities like shelter, fuel and warm clothing for their children, so that occasions of child neglect will probably increase.

Advocates for poor people say that stringent work requirements for welfare recipients may also increase child neglect if parents cannot find or afford child care.

Even states like Utah, which might seem far removed from the drug abuse and violence of big cities like New York and Chicago, have been targets of class-action lawsuits charging that they failed to care for children beaten or sexually abused by their parents.

Carol Clawson, the Solicitor General of Utah, said that "there were clearly problems" when the state was sued in 1984 by the National Center for Youth Law, a nonprofit law firm. Gov. Michael O. Leavitt agreed to settle the case six months after it was filed in Federal District Court. Under the settlement, he promised improvements in virtually every aspect of child welfare services. But an independent panel established under the agreement said last month that the state was flouting 53 of its 62 commitments, and lawyers for the plaintiffs said they would soon return to court to demand enforcement of the consent decree.

Mr. Leavitt, who has been in the forefront of Republican governors urging Congress to entrust the states with more responsibility, acknowledged that Utah had not fully complied with the decree. "The litigation has become a hindrance to our ability to fix the system. A diversion," he said in an interview. "It's the single part of my job that I find most difficult. We are dealing with social trends we don't control."

Angela L. Adams, a lawyer at the New Mexico Department of Children, Youth and Families, said: "The use of litigation as a form of child welfare advocacy has become

Many States Fail to Fulfill Mandates on Child Welfare



Small text caption below the photo, likely identifying Jerome C. Miller.

The cases are usually complex. The State of Illinois has retained the firm of Skadden, Arps, Slate, Meagher & Flom to defend state officials in a dozen child welfare cases. Maudie C. Allen, a spokeswoman for the Illinois Department of Children and Family Services, said the agency had paid \$7.8 million to Skadden, Arps since 1988.

State responses to the suits vary widely. Some officials are cooperative and constructive, seeing the suits as an opportunity to make improvements and press state legislators for more money. Other states are slow to change and reluctant even to disclose the data needed to assess their performance.

In Alabama, conditions for abused and neglected children have improved considerably as the state carries out a consent decree approved by a Federal district judge four years ago. Statewide, the number of children in foster care has declined 21 percent, to 7,650 from 9,825, since then. In the first instance carrying out the decree, the average time spent in foster care has declined to 180 days, from more than 300.

Paul Vincent, director of the Alabama Division of Family and Children's Services, said the state now provided extensive training to foster parents and caseworkers, who in the past received "little or no formal training." He A. Surin of the Boston Center for Mental Health Law, who represents the Alabama children, agreed. "The kids are safer," he said. "Protective services workers are doing better jobs."

Jerome C. Miller, a court-appointed receiver given authority over the child welfare system in Washington, says he has been frustrated at every turn by "bureaucratic intransigence" of city employees.

In Missouri, by contrast, Judge Dean Whitely of Federal District Court found state officials in contempt of court for failing to carry out a court-approved consent decree protecting foster children in the Kansas City area. The failure, he said, resulted from the officials' "lack of commitment to make a good-faith

effort to make the consent decree work." After being cited for contempt, state officials agreed to a new consent decree in 1984, but a lawyer for the children, Fred Rich of Legal Aid of Western Missouri, says there has been "gross concealment."

And Jerome C. Miller, a court-appointed receiver given authority over the child welfare system here in Washington, said he had been frustrated at every turn by the "bureaucratic intransigence" of city employees. The nation's capital is in the midst of a budget crisis, but Judge Mogen, overseeing a vast child welfare case here, said that was no excuse because the city had failed to make the "minimal effort" needed to obtain large amounts of Federal money for abused and neglected children.

In New York City and State, child welfare agencies are operating under at least five court orders and consent decrees. In December, after years of piecemeal litigation, advocates for abused and neglected children filed a comprehensive lawsuit asserting that the city agency was in arrears and should be taken over by a court-appointed receiver.

Lawyers for foster children have been remarkably successful in establishing the children's legal rights, even though the victories do not always produce immediate improvements in the quality of care.

Children removed from the homes of their biological parents are decreed to be in state custody, whether they live in state institutions or with foster parents. Federal courts have repeatedly ruled that such children are protected by the 14th

Amendment, which says that a state shall "deprive any person of life, liberty or property without the process of law."

Courts often compare the rights of foster children to those of prior inmates and adults committed to mental hospitals against their will. Thus, Federal judges have ruled that foster children have a right to be protected against physical harm and psychological abuse, just as they have constitutional rights to food, shelter and medical care.

But courts have found countless violations of these rights. In the Washington case, a child identified as Lashara A. told a child psychiatrist that her foster mother had beaten her. When the doctor asked who loved her, she replied, "No one." When he asked who hated her, she said her foster mother.

Another child, Kevin E., has been in the custody of the District of Columbia for 11 years, with no plan for adoption or psychiatric care. "He told the hospital staff that he hated himself," Judge Mogen ruled, "and he climbed into a trash can and asked to be thrown away."

One neglected child 'climbed into a trash can and asked to be thrown away.'

Child Welfare Fact Sheet

Child Welfare Expenditures (1993)

Total (Federal, State, Local)	\$1,565,002,749
Foster Care	\$1,154,215,878
Preventive	\$212,069,872
Child-Protective	\$181,397,517
Adoption	\$17,319,482

	New York State	New York City	Rest of State
Child Preventive Services (1993)			
Children Served	84,094	38,099	45,995
Child Protective Services (1993)			
Child Abuse Reports	138,394	52,326	86,068
Institutional Reports	1,514	905	609
% Child Abuse Cases Indicated	32%	35%	30%
Children in Foster Care (1992)			
Level of Care			
Total	60,173	46,677	13,496
Family Care	51,562	42,243	9,319
Stranger Care	30,957	22,401	8,556
Kinship Care	20,605	19,842	763
Congregate Care	8,611	4,434	4,177
Dynamics			
Admissions	14,998	9,020	5,978
Readmissions Within 2 Years	13%	12%	13%
Discharges	17,358	10,671	6,687
Median Length of Placement (Months)	26.2	36.0	13.5
Permanency Planning Goal			
Return to Parent/Guardian	52%	49%	62%
Adoption	34	39	18
Independent Living	9	8	12
Age			
Birth-1	10%	10%	9%
2-5	29	31	122
6-9	21	22	18
10-13	18	17	18
14-17	18	14	29
18+	5	4	5
Adoption (1993)			
Goal of Adoption Established in 1993	11,923	11,223	700
Freed in 1993, Regardless of Year Goal was Established	3,071	2,202	869
Placed in 1993, Regardless of Year Goal was Established	6,110	5,230	880

Children Served: New York State 84,094; New York City 38,099; Rest of State 45,995

Child Protective Services (1993):
 Child Abuse Reports: New York State 138,394; New York City 52,326; Rest of State 86,068
 Institutional Reports: New York State 1,514; New York City 905; Rest of State 609
 % Child Abuse Cases Indicated: New York State 32%; New York City 35%; Rest of State 30%

Children in Foster Care (1992):
Level of Care
 Total: New York State 60,173; New York City 46,677; Rest of State 13,496
 Family Care: New York State 51,562; New York City 42,243; Rest of State 9,319
 Stranger Care: New York State 30,957; New York City 22,401; Rest of State 8,556
 Kinship Care: New York State 20,605; New York City 19,842; Rest of State 763
 Congregate Care: New York State 8,611; New York City 4,434; Rest of State 4,177
Dynamics
 Admissions: New York State 14,998; New York City 9,020; Rest of State 5,978
 Readmissions Within 2 Years: New York State 13%; New York City 12%; Rest of State 13%
 Discharges: New York State 17,358; New York City 10,671; Rest of State 6,687
 Median Length of Placement (Months): New York State 26.2; New York City 36.0; Rest of State 13.5
Permanency Planning Goal
 Return to Parent/Guardian: New York State 52%; New York City 49%; Rest of State 62%
 Adoption: New York State 34; New York City 39; Rest of State 18
 Independent Living: New York State 9; New York City 8; Rest of State 12
Age
 Birth-1: New York State 10%; New York City 10%; Rest of State 9%
 2-5: New York State 29; New York City 31; Rest of State 122
 6-9: New York State 21; New York City 22; Rest of State 18
 10-13: New York State 18; New York City 17; Rest of State 18
 14-17: New York State 18; New York City 14; Rest of State 29
 18+: New York State 5; New York City 4; Rest of State 5

Adoption (1993):
 Goal of Adoption Established in 1993: New York State 11,923; New York City 11,223; Rest of State 700
 Freed in 1993, Regardless of Year Goal was Established: New York State 3,071; New York City 2,202; Rest of State 869
 Placed in 1993, Regardless of Year Goal was Established: New York State 6,110; New York City 5,230; Rest of State 880