

CHILD WELFARE PROGRAMS

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

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CHILD WELFARE PROGRAMS

WEDNESDAY, APRIL 26, 1995

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 9:30 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Bob Packwood (chairman of the committee) presiding.

Also present: Senators Grassley, D'Amato, Murkowski, and Moynihan.

OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Committee will come to order please. If the witnesses will please come forward.

I might say that a good many of our Members are missing today because of the funeral of Senator Stennis, who died over the weekend.

I remember when I was a freshman Senator here, Senator Stennis said to me—and I think he is probably right—"No matter how many years you are here, you will never see another 6 years like your first term." For me, this was 1969 through the end of 1974. And he said, "You have seen a President and a Vice President resign. You have seen two Supreme Court Justices turned down; you have seen us wind up, wind down, and get out of a war, all in 6 years. You are not likely to see that again in your career." And he was absolutely right.

But for the fact that this meeting had been scheduled, I would also be going to the funeral. I might say to Mr. DiBari that Senator Chafee is one of those going to the funeral. You are here at his invitation, and he wanted to be here, and we are delighted to have you. He is very apologetic, but he is going to the funeral, and will not be here.

Now in terms of the substance, this is the ninth hearing we have had on the general subject of welfare. This is a hearing on child protective services.

As you are aware, the House has block granted most of those. I think there is support in this Committee for block granting AFDC generally. Whether there is for child protective services, or whether there should be, I am not sure. That is one of the reasons we are having this hearing.

Then, as you are aware, the House block granted a number of other things that are not in the jurisdiction of this Committee. I think it is our understanding that on some of those other matters,

the committees of relevant jurisdiction will hear them. It may be in a Leader's amendment, we will just take what they do and put them into a general bill, and not attempt to exercise our will on it.

There is no guarantee as to what happens when we then go to conference. But today we are here to hear specifically about child protective services, whether or not we should block grant them, and if we do not, what we should do.

We could not have a better group before us. Mr. DiBari, we will start with you.

STATEMENT OF PETER M. DiBARI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CHILD AND FAMILY SERVICES OF NEWPORT COUNTY, NEWPORT RI

Mr. DiBARI. Thank you, Mr. Chairman. My name is Peter DiBari. I am President and Chief Executive Officer of an agency in Newport Rhode Island called Child and Family Services.

We are the largest and most comprehensive child welfare community-based agency in Rhode Island, and provide services to thousands of kids a year, in residential programs, home services, schools, and so forth.

Our agency is based on two fundamental values. The first value is that families are the primary social service delivery system in our culture, and that our role is to support that, not replace it. Second, healthy families cannot survive unless there is a healthy community. Our role is to enhance our community's ability to care for itself and its children.

I say that because I want to give that background in response to the first question I was asked. That question was, what is the most pressing problem in child welfare today?

I think it will not come as any surprise, or new information. I think it is a lack of community taking ownership and responsibility for kids who are abused and neglected.

I have nowhere near the time to get into all the reasons for that, but I can tell you that in Rhode Island, we are turning that around. We are working on a number of programs, a number of projects for communities. We are taking responsibility; we are taking ownership, helping families, helping each other. An example would be, we have 250 staff in our organization. We have 280 volunteers helping each other.

I think the more relevant question though is, what do I believe the effect of block grants, reducing entitlements, reducing or repealing minimum Federal standards will have on children in the child welfare system?

I think, Mr. Chairman, we have to reiterate your point. Child welfare is not general welfare. They are somewhat related, but they are totally different. Child welfare is protecting abused and neglected children. It is not an individual responsibility of these children to protect themselves. It is our responsibility to protect them.

One of the key points I would like to make today is that we must keep child welfare and child protection out of the general welfare debate. If we do not, we could lose a very important piece of what we are doing in our country to protect kids.

What would be the impact of block granting and repealing minimum legislation? I can tell you from someone who works in a community day in and day out, who has worked and chaired State task forces. I think I have been on every Governor's task force related to child welfare in our State.

I think it would be disastrous. And I am not talking about the financial aspect. I am talking about Federal guidelines, the Federal regulations, which provide me with the tools I need to get communities over that first hump of rejecting these kids and into taking ownership of these kids.

I do not have time to give you example after example. However, where our community has initially rejected what we have been trying to do for kids, but because of Federal law, because of laws saying that these kids have a right to be in this community, over time it has turned around to where the community has actually taken ownership.

Sometimes, to my regret, there are kids that I have not even wanted to keep in our programs, and the community has said they will take responsibility for those kids. So it does work.

The other general idea of block grants is that if you give the States the total authority, they somehow will do what is right.

I would like to make a couple of points on that.

The CHAIRMAN. What did you say? You are saying that they will sometimes do what is right?

Mr. DIBARI. Yes. The States do have authority over this area right now. The Federal Government may set some minimum guidelines, but the States really develop their programs.

But I can also tell you, in serving on State task forces and working within our State, time after time we would have compromised those Federal guidelines in Rhode Island. We would not have given children the services that they are required by law to receive if those laws were not in place.

We are currently under court order in Rhode Island around an issue called night to night services. A Federal court has said to the State that it cannot keep kids in the State system without a permanent placement, having them in office buildings all day, and then trying to find them a place at night. The result of that was more kids being placed in more stable situations.

I chaired a task force for a year and a half on partnership between State and private entities, which ended up with State line workers as part of that task force. The goal of that task force was to develop a way that we could get kids back to communities, and that we could have kids become the responsibility of communities.

Because it had gotten embroiled in a union renegotiation, it was taken completely off the table during negotiations, and the end result is that our State is now hiring 75 more caseworkers to do what could have been done in a much better way in communities, having these kids back with their families. And I am not blaming unions. From their perspective, they did what they had to do.

I would like to make three points. First of all, let us keep children and protective services out of the general welfare reform. It must be done. We need to preserve the individual entitlements for these kids who are abused and neglected. We also need to keep the Federally enforceable protections.

I know there is an assumption that the Federal Government does not enforce their laws and, therefore, what good are they? I am going to tell you that this is a tool I use every day in helping kids. And if you take them away, I am going to lose those tools, and I am not going to be able to get these kids back with their families.

Thank you.

The CHAIRMAN. Thank you very much.

Now we have G. Peter Digre, Director, of the Department of Children and Family Services for Los Angeles County. It is good to have you with us.

[The prepared statement of Mr. DiBari appears in the appendix.]

STATEMENT OF G. PETER DIGRE, DIRECTOR, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, COUNTY OF LOS ANGELES, LOS ANGELES, CA

Mr. DIGRE. Thank you Senator.

Senator Packwood, Members of the Committee, I would like to thank you for the opportunity to be here today.

Today and every day, I am personally responsible for the care of 60,000 children in Los Angeles County. I am here representing Los Angeles County, and I am also submitting statements for the National Association of Counties and the California County Welfare Directors Association.

[The prepared statements appear in the appendix.]

I have spent my entire professional life working with children and families. I believe I know first hand both the strengths and the weaknesses of the Child Welfare and Adoption Assistance Act of 1980.

As I am sure many Members of the Committee remember, the Act was passed in response to very serious concerns about evidence that children were being lost in the foster care system.

I know that Senators Packwood, Dole, Moynihan, Chafee, Roth, and others who are still on this Committee, participated in the drafting of these amendments, and I understand it was passed by a voice vote.

Senator MOYNIHAN. In 1980?

Mr. DIGRE. In 1980. Absolutely. While this current Federal law is not perfect, it has been the basis for major improvement. This improvement has been achieved in the face of major social crises like increases in homelessness, poverty and drug addiction that have put unrelenting demands on the child protection system.

I will just mention a few of these improvements. Families are being kept together through family preservation. In Los Angeles we found that 30 percent fewer kids go into foster care where we have community family preservation networks.

Many systems like ours have used Federal matching funds to train and screen all foster parents before they take care of children.

Federal funds have enabled us to hire sufficiently trained staff to supervise children in care. All States now have successful adoption subsidy programs that have increased the number of children who find permanent homes.

Under the Act, much to the credit of Senator Moynihan and your former colleague, Senator Armstrong of Colorado, every State has developed an Independent Living Program which trains young peo-

ple who have to emancipate from foster care and jump start their lives at age 18. With this program, I am able to insist that all youth have jobs or income, housing and educational opportunities before they emancipate.

All these achievements are possible because of the flexibility provided under this law. This flexibility is based on a financing system that is responsive to the numbers of children which require foster care and other types of care.

In the past 10 years in Los Angeles, we have seen two big spikes in terms of the number of children entering the child protection system.

The first was in the late 1980's, due to crack cocaine. The second was in the early 1990's, when the deep L.A. recession, coupled with welfare reductions, drove many families into economic crisis.

In both cases it was only the responsive nature of Federal Title IV-E funding which allowed us to protect the safety of thousands of children.

HHS estimates that under H.R. 4, benefits would be denied to over 5 million children nationally. If these cuts were put into effect, the nation's foster care population may well grow geometrically.

This would occur for two reasons. First of all, families would not be able to provide food, clothing and shelter, which is the definition of neglect in every State.

Second, we experienced in Los Angeles during the recession, a big increase in family violence and physical abuse. In other words, economic stress quickly translates into violence within families.

If a child protection block grant is implemented at the same time that more children require services, there will be no way to pay for their care.

For example, in Los Angeles we have 600,000 children in our County on AFDC. If HHS is right, and 300,000 of these children would be impacted, and if only one out of 20 of these children were to enter the foster care system, we would experience an influx of 15,000 children into foster care at a cost of \$185 million annually.

If Federal funds were block granted and capped, the cost of foster care alone would be so great that I would literally have to lay off every child abuse worker I have in order to pay for the foster care for these children.

There are many ways to make this system more efficient. First of all, I would like to suggest things that should not be changed. Number one, IV-E should remain workload responsive. Number two, adoption assistance should remain an entitlement. Number three, independent living should be continued. Without this, foster youth will graduate into homelessness, prostitution and crime.

Family preservation is extremely valuable, and must be continued. And training is worth its weight in gold.

I would suggest the following reforms. First, eligibility for Federal participation in foster care payments should not be contingent on AFDC eligibility. A parent's technical qualification for AFDC is irrelevant to a child's need for protection from abuse. This change could be made cost neutral by changing State by State the Federal/State sharing ratios.

Second, many small categorical programs could easily be block granted, reducing State planning requirements.

Third, State and local governments should be permitted to offset a proportion of the money allocated to them to pay for foster care for family preservation, as we do in California.

Finally, I believe that performance standards for child protection should not be eliminated, as currently fashionable, but should be strengthened.

I would like to give just a couple of examples. We know that children can be injured or neglected by caretakers if they are not closely supervised. This supervision should be required. And we know that caretakers, if they are not criminally screened for abuse histories, can inflict damage on children. This screening should be required.

Thank you for this opportunity to speak here. The decisions you make are so important, and will profoundly affect the ability of my colleagues and me to carry out our responsibilities to protect children from harm.

So thank you very much for this opportunity.

The CHAIRMAN. Mr. Digre, thank you very much.

Next we have Dr. Wade Horn, who is the Director of the National Fatherhood Initiative in Gaithersburg, MD.

Doctor?

STATEMENT OF WADE F. HORN, Ph.D., DIRECTOR, NATIONAL FATHERHOOD INITIATIVE, GAITHERSBURG, MD

Dr. HORN. Thank you very much, Mr. Chairman.

In addition to being director of the National Fatherhood Initiative, I formerly served as the Commissioner for Children, Youth and Families in the U.S. Department of Health and Human Services, and as a member of the National Commission on Children.

The child welfare system is not only in crisis, it is at a crossroads. We have to decide whether or not we want to continue down the road we are on towards more Federal micromanagement of the States and too little flexibility at the State and local level, or to change direction and do something different.

I am here to argue that one of the most important reasons why the current system is in crisis is because of too much Federal micromanagement of the States and too little flexibility at the State and local level.

Currently there are two dozen different funding streams within the Department of Health and Human Services, three others within the Department of Justice and one within the Department of Housing and Urban Development, all funding different parts of the child welfare system.

Why should a State have to negotiate 28 different funding streams in order to set up one comprehensive seamless system of services to protect children?

At this year's State of the Union address, President Clinton said that the Federal Government has to learn that there is not a program for every problem. I would be satisfied if the Federal Government would learn that there should be only one program for every problem.

The current system is simply too categorical, burdensome and prescriptive. It results in too much time and resources on the part of the States being diverted to satisfying Federal paperwork re-

quirements, and away from serving the needs of children. What is needed to improve the system is greater State flexibility, not more specialized funding streams.

In this regard, I think there is much to be recommended in the recently passed House child welfare reform bill. By combining the various child welfare discretionary and State formula grant programs into one block grant, States and localities will be empowered to use these funds to build a truly seamless system of comprehensive services and supports for children and families, without having to satisfy idiosyncratic and often conflicting requirements of dozens of different Federal programs.

In addition, I applaud the House block grant proposal for also devolving oversight of the child welfare system to the States.

I am particularly in support of the provision that would require States to utilize citizen foster care boards for overseeing the child welfare system. Because the reviewer is a volunteer with no vested interest in the child welfare system, the reviewer can concentrate instead on the welfare of children.

In a recent study in Douglas County, KS, it was demonstrated that by using citizen foster care review boards, there were significant reductions in judicial and administrative delays; there were speedier implementations of permanency plans; and, most importantly, there were significant reductions in the time children spent in out-of-home placement.

I do, however, have one major disagreement with the House bill. I believe that the Title IV-E adoption assistance program should remain an open-ended entitlement.

If the adoption assistance program is folded into the block grant, States will be provided with a choice. They will have to decide whether or not to continue adoption assistance subsidies. If States decide to discontinue adoption assistance subsidies, it is highly unlikely that many children with special needs will ever be adopted.

Two out of every three of the 20,000 children in foster care currently available for adoption are children with special needs. Experience has shown that such children, especially once they are no longer infants—and 90 percent of children in foster care available for adoption are no longer infants—are unlikely to be adopted absent an adoption subsidy. Indeed, one of the current requirements of the adoption assistance program is that you are ineligible for a subsidy unless and until it is demonstrated that one cannot be adopted without a subsidy.

Consequently, if States decided to discontinue an adoption assistance subsidy program, thousands of our most needy children will be denied the opportunity to grow up in a loving and permanent home.

If, on the other hand, States choose to continue an adoption assistance program, there will be a clear financial disincentive for moving children to adoption. This is because at the point at which the adoption agency has to make a decision about a particular child, as to whether or not that child should be reunited with the family of origin or placed for adoption, there will be a clear financial advantage towards returning the child to the family of origin.

If they choose to place the child for adoption, not only will there be a cost in this year's budget for the adoption assistance subsidy,

but there will be an ongoing obligation for that child on all future child welfare budgets, which are now capped budgets.

If they choose on the other hand, to reunify the child, there is no such ongoing financial obligation.

Given the lack of efficacy of so-called family preservation services, we should be moving more children more quickly towards adoption. Unfortunately, block granting adoption assistance will move us in the opposite direction.

In closing, I would like to add one additional cautionary note. I hope that we avoid the trap that many have fallen into in the past in assuming that the most important things that we will do will be legislative.

As director of the National Fatherhood Initiative, I want to remind all of us that one of the most important and significant predictors of abuse is the absence of a biological father in the home. By some estimates, and contrary to popular belief, abuse increases at least five to six times when biological fathers are absent from the home.

If we are ever going to reverse the rise of the number of children who are in need of child welfare services, not only will we have to do some very important things legislatively, but we will also have to do some very important things culturally. And one of the most important cultural things we can do is reconnect men to the ideal of good, responsible and committed fatherhood.

Thank you very much.

The CHAIRMAN. Doctor, thank you very much.

We will close with Ernestine Moore, who is the managing director for the Skillman Center for Children at Wayne State University in Detroit.

[The prepared statement of Dr. Horn appears in the appendix.]

**STATEMENT OF ERNESTINE MOORE, MANAGING DIRECTOR,
SKILLMAN CENTER FOR CHILDREN, WAYNE STATE UNIVERSITY,
DETROIT, MI**

Ms. MOORE. Thank you, Mr. Chairman, and good morning to all.

I have been professionally involved in child welfare services since 1970 in various capacities in both the public and the private sectors, most of it in the State of Michigan, in the city of Detroit and the county of Wayne.

It is from that experience that I address you here today. And I also address you in my own opinions, and not those of Wayne State University.

A broad child welfare public policy, crafted to provide to each of our children the greatest possible access to resources and services which encourage their optimal success, is necessary to an overall reduction in child abuse, neglect and delinquency.

However, as I speak today to the question of what are the most significant problems in the present child welfare system, I will be addressing the rather limited, narrowly focused system of public and private services to children and families who have been determined to be at risk for neglect, abuse or delinquency, or who have actually been adjudicated as such.

This array of services presently includes what we call preventive, supportive and supplemental services, protective services, family

preservation services, foster care, adoptions, independent living services, residential care, and institutional care and training schools.

The five most significant problems in the child welfare system, in my opinion, are: Lack of integration of organizational structures, policies, procedures and intervention frameworks of the different services within that system; lack of sufficient adequately trained and supportive staff; complexity in the types of situations presented, with limited accessibility to resources to effectively intervene; increasing numbers of children in poverty; and increasing severity in the types of offenses committed by juveniles.

For the most part, in my opinion, most staff are doing the best they can with the resources that they have, and should be commended for their commitment to these children and their families.

Turning now to the second question, I submit that the impact of block grants on the capacity of State and local governments to provide services to children and their families depends on the resources made available from the Federal, State and local levels, the constraints imposed at any level on the use of those resources and, finally, the creativity of the State and local governments and the child welfare community, broadly construed, in designing and implementing an effective child welfare service delivery, supported by all other appropriate and necessary resources.

I support a block grant for child protection which provides administrative flexibility to States, local units of government and the child welfare community, to implement strategies, to alleviate the most significant problems in their child welfare systems.

Second, adequate resources are needed to meet the needs of children at risk of abuse, neglect or delinquency, or those who have actually experienced such conditions.

And, finally, accountability for achieving outcomes that are designed to reduce harm to children and reduce juvenile delinquency should be insured.

The child welfare system, in my opinion, cannot deviate from its mandate to provide protection for children from parental abuse and/or neglect, and to provide services to youth who are at risk of delinquency, or those youth who have actually been adjudicated delinquent.

To the extent that any provision of the block grant challenges or abrogates that mandate, either on its face or in its application, it must be defeated.

To the extent that any provision of the block grant reduces existing resources, Federal, State or local, to support that mandate, it must be defeated.

To the extent that any provision of the block grant provides unbridled discretion to the States of local government, it must be defeated.

My assessment of the child protection block grant legislation, as passed by the House, and now before this Committee is that, one, it does not on its face abrogate the mandate of the child welfare system. The purpose statement of Title II clarifies sufficiently for me that the mandate is supported.

I think it is our duty as block grants are implemented, if they are, to be vigilant to ensure that no State or local community abro-

gates the terms and conditions for the award of funds and hence abrogates the child welfare system mandate.

The block grant legislation before you, in my opinion, does reduce the Federal allocations to many States, and only requires maintenance of effort by the State for two fiscal years.

I submit that this Committee should modify that provision, and that States should be held harmless for a minimum of 5 years, in order to redesign and implement an efficient and effective child welfare system.

Third, it does not provide unbridled discretion to the State or local government. I think there are sufficient provisions in the State plan requirements that require the States to provide certain levels of support.

There are areas where strengthening HHS oversight and participation should be considered. I would also specifically suggest improved HHS oversight ability as to the review of State procedures, and provision of national resource centers for technical assistance and support to the States.

In conclusion, I would just say that as we review not only the child protection block grant, but any of the proposed block grants, we must ask how it will affect the child. And, to the extent that we can respond that a specific provision as written will result in a reduction and/or elimination of harm to the child, then we can pass it. If that result would not be achieved, we must modify or delete it.

Thank you.

[The prepared statement of Ms. Moore appears in the appendix.]

The CHAIRMAN. Pat, this panel presents both the dilemma and the privilege we have every time we have a hearing. I do not know where we would get four better people than we have here on this subject.

There is a reasonable divergence of opinion from four people who know the subject better than anybody else we would ever have testify. I do not know why it surprises me. It is not unique to have this, but it is frustrating in trying to decide what to do.

The other day I saw a story in The Oregonian, our daily in Oregon, and it says, "The Environmental Protection Agency under attack for almost everything else", and whatnot, "could solve many of its problems by transferring more authority for antipollution efforts to States and local governments", and whatnot, "states a report by the National Academy of Public Administration."

I had never heard of it before, so I sent a memo to my staff asking two questions. Basically, what is the National Academy of Public Administration? Is it respected, and does the report say this? She answered back that, yes, and are you a member? [Laughter.] Absolutely. We will do exactly what it says then.

It basically said yes, that many of the environmental functions could now be turned back to the States, and should be turned back to the States.

And I looked at the list of the people who are on the panel. They are very high caliber people, and there is hardly a right wing or a left wing, just an intelligent organization.

It said that things the States could not do, or would not do in environment 10 or 15 years ago, or many years ago, they are doing

better than the Federal Government is now doing. Needless to say, EPA takes exception to that last comment. But they are simply saying that the States are more able and more willing to do it. They are closer to the problem and can do it quicker. So they recommend turning back a lot of functions to the States. And that is environment.

We are now debating what to do with welfare generically, maybe children specifically, and that is the debate today—children specifically.

So I have two questions. I will start with Ernestine Moore, and then just work across the panel, if I could.

The first argument we will often get is that the States are simply not compassionate enough, or intelligent enough, or caring enough, or whatever it is, and that we have greater wisdom or greater compassion, and there must be Federal standards because we care more about children than the States do. I am not sure I buy that argument, but that is the first question I want you to comment on. Do they have superior wisdom or compassion?

The second argument is that, even if they are as smart as we are, and even if they have as much care and compassion, they do not have any money, and it will not occupy a high enough priority. Therefore, when push comes to shove with the States, child protection or welfare will get a lower priority than highways or education, or State police, or whatever States do.

Needless to say, we have a money problem also at the Federal level. But starting with you, Ms. Moore, could you comment first on the capacity, the care, the compassion of the States. And, assuming that we give them a reasonable block grant, what would they do in a financial bind? Would children occupy a lower priority than they would occupy with us, also being in a financial bind?

Ms. MOORE. Well, with all due respect to this body, and Washington, DC, in general, I do not think there is any superior wisdom in any one location. I think that, as we address the issues of child welfare, we have got to have a combination of wisdom sitting at the table. And that wisdom sometimes is more at the local level.

As my colleague down at the end said, we have got to look back to communities and to families in terms of how we can strengthen them to provide for the protection of children. I do not think we do that from the Federal level.

As to the issue of financing, I think that clearly is a problem for all of us. We never have enough money, or we do not have it allocated in the ways that we need to have it allocated.

I am of the opinion, at least in our State, that we have sufficient financial resources to provide for quality services to all of our children and families. What we are confronted with is bureaucratic and legal barriers to appropriately putting those resources where we need to put them.

The CHAIRMAN. Are these Federal barriers?

Ms. MOORE. I think Federal, State and local.

The CHAIRMAN. All right.

Ms. MOORE. And that is why I say that I do not think at any level has all the wisdom. Each level puts its barriers and its wisdom on the next lower level, so to speak.

If you get into a situation of limited resources, I guess I still believe that we as a society still hold our children in high esteem and high regard.

The CHAIRMAN. At both the State and the Federal level?

Ms. MOORE. At both the State and the Federal level. I do not think if we had a child on the streets, and a road that needed to be repaired, that we would not serve the child on the street first and repair the road later. I just have to believe that.

The CHAIRMAN. Dr. Horn?

Dr. HORN. Certainly, compared to the current system in which States and local communities have to negotiate 28 different funding streams, the idea of block grants is a great improvement. It allows for greater flexibility, and greater innovation at the local level.

But, even more important from my perspective, is devolving the responsibility for the oversight of this system to the States and local communities. I do not know how it is that we can reasonably expect someone well meaning and knowledgeable from Washington DC, to go out to Washington State and look at a specific case of a specific child, and be able to make any reasonable judgments about whether that child was treated well or not. They simply do not have the intimate knowledge of the resources and capacity of that community. They would not know whether to ask if a particular child could have been helped if he or she only had access to a particular program in that child's community. How would somebody from Washington DC, or even a regional office, be able to have that kind of understanding? They could not ask the relevant questions.

So one of the things that I think is so important about the block grant approach is that it devolves oversight of the system down to the State and local communities.

I am very much in favor of there being a requirement that that oversight be done by an agency or system independent of the child welfare agency. It seems to me that we do not have a good history of policing our own, whether it is in the child welfare system or any other system.

It is in the context that voluntary foster care review boards have been shown to be effective and helpful. If we can get voluntary foster care review boards in local communities reviewing actual cases, they are going to be much more effective at holding the child welfare agency accountable for a particular child, which is impossible to do when one has the Federal oversight located here in Washington.

The CHAIRMAN. Mr. Digre?

Mr. DIGRE. Thank you. I think for all of government, at every level, in all of our lives, checks and balances are very important.

As I understand it, there are 23 or 24 States that are operating under court order because they have failed to provide basic safety, basic protection at a minimal standard of care for children.

The CHAIRMAN. Is that out of lack of compassion or lack of money?

Mr. DIGRE. In my experience, I would have to say that sometimes it is both. Quite commonly, in my experience, it is due to lack of knowledge and really thinking through how to properly implement programs, how to properly supervise kids, not setting up minimal

standards, like the ones I talked about, to visit kids, to make sure that foster care providers are trained, that their backgrounds are checked, and things like that.

So I think there is a lot known in this field. And I think what is known should be captured and put in the kind of minimal standards that we currently have in the Federal law. Just basic things like the requirement that caregivers be licensed could potentially be taken out of the law, which I would consider incredibly dangerous.

Some of the those powerful little words, like "reasonable efforts" have meant so much in terms of focusing people away from trying to work closely with families to give the families a chance to rehabilitate themselves and be able to raise their own children.

So I think there should be a basic structure of minimal but very crucial program requirements, a good and dynamic check and balance between the Federal Government and the State and local governments.

I agree with Dr. Horn totally that several small categorical programs could very easily rolled up into some kind of block grant with little impact.

But I also agreed with his comments regarding adoption assistance. If people do not know that adoption assistance is an entitlement, and if they are going to adopt a child with a trachea or a shunt, or something like that, they have got to know that is going to be with them year after year. I cannot say to them that we will give it to you next July 1, if I have the money in the budget or not, and if the foster care population does not increase.

I think the other thing is the basic funding mechanism, the IV-E, has to be responsive to the numbers of kids in the system. Otherwise, if the numbers go up, the quality will just deteriorate drastically. And that will not be flexibility; that will be the end of flexibility.

I think there are three basic programs that really need the protection of Congress. The most important one is the Independent Living Program; 16- and 17-year-olds in foster care have no constituency whatsoever to defend them other than you and other than the people sitting here. They really need the structure and the assuredness of knowing that program is there and available for them. It is very minimal, and this is a group that needs that protection.

I think training is another thing. It is so important to be able to train caregivers, foster parents and child abuse workers to be able to do the job competently. Their work is so complex that I think you just have to protect that and target it.

The third I would mention, just in terms of basic minimal infrastructure, is family preservation. We are seeing great merit in it if it is done very intensely and very comprehensively, focused in on services to families, including fathers and mothers, such basic things such as jobs and housing, making sure that they can economically take care of their children, and drug rehabilitation, all involved with intense visitation to make sure that the kids do not get hurt.

So I would keep a basic program structure together, minimal standards, and a good dynamic check and balance between the Federal Government and the States.

The CHAIRMAN. Mr. DiBari?

Mr. DiBARI. I certainly do not think we neglect children because of lack of compassion at the Federal or State level. I think it is part of process of the society in how we make decisions. What we have decided to do in a democracy is to have a balance. We have talked about checks and balances. We have talked about pressures, and then coming up with what we feel is the best and most appropriate decision.

What I am saying with that though is that there have to be certain baseline protection for all of us, but especially for abused and neglected kids.

When we say that States make decisions that at times seem inappropriate, because of the pressures at the time, it might be the only decision they could have been made.

I will give you an example. In our State, family preservation services has been put in the mental health unit of our Department of Children, Youth and Families. Now family preservation is not a mental illness. For a variety of political reasons, staffing reasons, a whole other array of reasons which I might or might not agree with, that was put with the mental health unit.

I would guarantee you that if you did not have minimal standards on how family preservation had to be implemented in our State, it would be a mental health program. Those dollars would have been shifted to mental health.

The mental health constituency in our State is very strong, as it should be. Kids with mental illness have very strong active parents who are advocating for them. And they are getting a wonderful response, an appropriate response. But they cannot in that balance pull money away.

Now they are not doing anything wrong. It is not that they do not have compassion. They are doing what they believe is in the best interest of the world as they see it.

The Federal Government has to keep those standards. They have to keep those minimums. When we talk about State flexibility in setting up advisory councils, there is nothing in Federal law now that says a State cannot. There are a whole variety of things that a State could do, and States have done. What we are talking about is how to protect kids when States do not, not because of lack of compassion.

To be honest, I am not even sure it is lack of money. We get tons of kids in residential programs that could be at home. It is costing \$50,000 to \$80,000 a year to keep them in residential programs. We just started a program for \$6,000 that in 30 days will get those kids back home, and spend a year of services to them dealing with the courts.

It is not lack of money. We have all begun to look at what we are doing in perspective, and kind of keep going.

I guess the one point I would make, Mr. Chairman, kind of reflects what you said earlier, that this is very complicated. My point would be then, why rush it? Why not stop? Why not say that we will take child protection out of the changes that are happening

here in Washington, and take a year or 18 months and figure this out and come up with the best solution?

We are really all here arguing the same thing in one sense, and that is protecting children and supporting families. We might have differences of opinion on how to do that. Why not just separate this out, hold it back, set a time schedule, and then do it in a more deliberative manner?

The CHAIRMAN. Thank you.

Senator Moynihan?

Senator MOYNIHAN. Mr. Chairman, as you said, this is just an extraordinary panel. We are very much in their debt.

The term "child welfare" is to be seen as something apart from the general provision of income for dependent families. This is a problem of abused children, abandoned children, neglected children. And it is a profession.

You go back to that man who seems to have started most everything in the 20th century, Theodore Roosevelt. He convened the White House conference which in shorthand was called the White House Conference on Children, but it was in fact the White House Conference on Care of Dependent Children. That conference created the Children's Bureau, which got into a lot of institutional confusion when the problem of children in single parent families came along and overwhelmed the earlier problem of abusive and dysfunctional families.

In the National Academy of Public Administration, there once was a promising profession in this country called "public administration." It had no politics except a certain disposition to say that the Government is going to be doing things that will have to be paid for by Government.

The Harvard University started a school of business and also started a school of public administration. It has receded. The professionalism has seemed insufficiently political somehow in the last 40 years, but it was very powerful then.

In the 1930's President Roosevelt set up a Committee on Administrative Management, which proposed, among other things, that the President should have up to 5 assistants with a passion for anonymity. [Laughter.]

At last count there were 1,006 in the White House who required security clearances.

But we do see a shift. There are moments when you would never want to let the State governments be responsible for clean water because they know nothing about it. And a generation goes by, and they know a lot about it and care a great deal. And we respond to that.

The question we are dealing with is also one in which I think we could usefully recognize the discontinuities. A while ago, I wrote a piece for the Daily News on the general subject of welfare. My colleague, Senator D'Amato, will recognize and appreciate this.

In 1956, I was Assistant Secretary to Governor Averill Harriman in New York. In his budget, Governor Harriman proposed to raise the pay of the commissioner of health and the commissioner of mental hygiene, two very distinguished men, Dr. Hillabode and Dr. Houck. They were very much subject to public attention in health,

polio, mental health, the appearance of deinstitutionalization and tranquilizers, and lots of other things.

One day the Commissioner of Social Welfare called on me, a wonderful man named Houston. I was hardly a towering figure in the executive chamber, but I was as high up as he could get. He said he was there not to appeal for himself. He did not have any personal interest, since he was going to be retiring soon. But the three commissioners—health, mental hygiene and social welfare—had always been seen as professional, and they always had the same pay. He felt he would just be letting down the profession, and would there not be any way, not for himself, but for whomever succeeded him.

He said he knew that welfare was no longer an issue of importance. The State constitution provided for the provision of welfare to needy families. It provided for the maintenance of the Erie Canal as a free public route. But nobody any longer used either.

And, bang, 15 years later Governor Nelson Rockefeller said, do not tell me about welfare. It will be the end of Western civilization as we know it.

These things have come crashing in on us, have they not? In your lifetimes, you have seen huge change in the conditions of children and families. And what is wisdom when we are faced with something we do not understand? Nobody knows what happened, do we? Or does anybody think they know? The ratio of illegitimate children has gone up every year, without exception, since 1970, probably before that. I expect it is about 45 percent now in Wayne County?

Ms. MOORE. A little over. I think it is 60 percent.

Senator MOYNIHAN. Ma'am?

Ms. MOORE. Sixty percent.

Senator MOYNIHAN. Sixty percent.

Ms. MOORE. Yes.

Senator MOYNIHAN. Ma'am, when you have to deal with a population where, say, 6 percent of the children might have some troubles, and 94 percent of society was available to help, that is hugely different than when 60 percent have to be helped by 40 percent. It is a wholly different set of ratios, is it not?

Ms. MOORE. It is. But, if I may comment, I think that when we look at Wayne County in terms of the numbers of referrals for child abuse and neglect, and numbers of delinquency, we are really only looking at 10 percent of the child population. Now that is 10 percent that is reported, or 10 percent that is caught.

But I would like to caution that we do not say that simply because we have a proliferation of children either in single parent households or born illegitimately, that this in and of itself condemns those children and their families to being subjected to the intrusion of this Government, or needing the intrusion of this Government.

Senator MOYNIHAN. But they need something from that Government?

Ms. MOORE. Yes. All families need support. And we need to look at it in that context. As my colleague says, we do not want to put child welfare in the same category as public assistance.

Senator MOYNIHAN. Well, that is your professional point.

Ms. MOORE. Yes. But I would submit that, at least for us in the State of Michigan, we know that 80 percent of our children in out-of-home care are coming out of ADC families.

Senator MOYNIHAN. So that is the percentage of the population at risk?

Ms. MOORE. Precisely. We need to connect all of these block grants.

Senator MOYNIHAN. Eighty percent come out of AFDC.

Ms. MOORE. We need to know how they are interconnected and interrelated as they ultimately impact the child. Our goal should be to avoid neglect and abuse of children, and that avoidance might happen much earlier in the system.

Senator MOYNIHAN. Dr. Horn?

Dr. HORN. Senator, if I could add something here. This goes back to the cautionary note that I offered at the end of my opening remarks: It seems to me that the central task of any civilization is to socialize its young men.

Senator MOYNIHAN. Right.

Dr. HORN. And we are failing at that quite dramatically.

Senator MOYNIHAN. You say young men.

Dr. HORN. Yes.

Senator MOYNIHAN. Somehow the female of the species manages?

Dr. HORN. Well I think it is different. One of the socializing forces in the lives of men is family, in terms of both their upbringing, and the way that family reins in the natural impulses and urges of men.

When men are committed to children and spouse, they are better socialized. There is an old saying that the least dangerous person in the most dangerous neighborhood in America is a man walking with his 4-year-old child at his side. That is not a dangerous person.

It seems that what we have done as a culture—if you will allow me to put on my professorial hat for a moment—is turn our backs on some very fundamental institutions that help to socialize men. One of them is marriage. We have, for example, significantly reduced the stigmatization of divorce and out-of-wedlock fathering.

The thing that is so frustrating about this is that I do not think there is a piece of legislation you can pass that can change that. I think that is really in the realm of the culture.

There are things we can do, and maybe block grants can be helpful for the most abused, the most neglected, the most needy children and their families. But for us to believe that by block granting these programs, whether it is in child welfare or welfare, that it will have anything other than marginal impact on these very profound cultural issues, I think is to kid ourselves.

And we will have another set of hearings 10 years from now talking about why the block grant approach did not go well.

I think what we have to do is recognize that this is really a deep problem of the culture, and to call upon all of our character shaping institutions to reinforce, to reinvigorate, and to recommit towards a very dramatic cultural change.

Senator MOYNIHAN. Thank you.

The CHAIRMAN. You count the Government as one of those forces?

Dr. HORN. There is no question.

Senator MOYNIHAN. Mr. Chairman, I have used up more than my time.

The CHAIRMAN. If Mr. Digre and Mr. DiBari want to comment, please go ahead.

Mr. DIGRE. Well maybe one piece of information that might be interesting for the Committee. This compounds everything that the Senator is talking about regarding illegitimacy.

In our child welfare system, we recently did a very thorough analysis of the impact of drug addiction on families. We found that 70 percent of all the families involved with our system had a drug addiction problem as a very basic part of the family.

Of the 100 percent of the total addicted population, fully 40 percent or 4/7ths of the addiction population was crack cocaine addiction, which I think is just evidence of how radically our country changed—you could almost date it—beginning in about 1986 or 1987 when this was introduced. This is when we went through this first enormous spike in our foster care population. It basically doubled in the period of 1986 to 1990.

And, if you look at it, it was largely driven by the reality of looking carefully into the lives of about 3,000 babies a year who were reported to be born already addicted to crack cocaine and other drugs.

So I would just add that as one of the really pervasive factors that is making child welfare such a tragic and difficult field these days.

Mr. DIBARI. There are lots of issues that are affecting the children and families that we are talking about, our communities.

When we talk about substance abuse, I would say that this is absolutely correct. We talk about sexual abuse. Over 70 percent of the girls over 12 who come into our residential program have been sexually abused.

So it is a different world. My point, however, is that we need to solve those problems. We need to have welfare reform. We need to have a different perspective on what a family needs to be and what communities need to be. While we are doing that, we need to protect kids. That is why we have to separate it out.

My agency started 130 years ago, after the Civil War, because so many men were killed in the Civil War that there were single-parent families. And the community started a program called The Home for Friendless Children. And it went along for a while. But one of the things we quickly got into was a sense of the worthy poor versus the unworthy poor. Then there was a committee in our community, our agency board, who would make that determination whether you were worthy or unworthy. And they actually refused services to kids because we deemed their family unworthy, that they were drinking or there were some other problems.

I think in this day and age, 130 years later, we have to get beyond that. There might be problems with families. There might be problems with fathers. There might be problems with alcohol. There might be problems with sexual abuse. But we have got to protect the kids while we are solving these other problems.

Senator MOYNIHAN. Thank you sir. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Grassley.

Senator GRASSLEY. The discussion between Senator Moynihan and Dr. Horn reminded me that very recently our own Census Bureau came out with a study on poverty. They said there were two certain ways to move out of poverty—the first was marriage and the second was education. These are two very important guidelines. To some extent, I suppose the absence of them is the reason why people are in poverty. The two-parent family helps, as does increasing your level of education.

Maybe it is common sense, but I do not often get that sort of common sense when a Government bureaucracy issues a report.

Also, as a comment on something Dr. Horn said, he was talking about the shame of divorce. I remember in the late 1960's, in our legislature we were very cavalierly evaluating the issue of modernizing divorce laws and instituting no-fault divorce, which I think leads to the reduction of shame for divorce, right?

Under the laws we had before that, one party was at fault. You had to prove a reason to have a divorce, rather than just breaking a contract, which I think is the theory behind no-fault divorce.

But we very cavalierly approached so-called modernizing our divorce laws in our State. I think maybe every State in the nation has done that. As I look back, I presume I voted for it, though I do not remember with certainty what I did 30 years ago. Perhaps it was one of the mistakes I made as a public official, considering what has happened in the 25 years since then.

I would start my questioning with Mr. DiBari. You testified that, "A block grant that would eliminate the individual guarantee of support could severely undermine State and local community efforts to protect and serve children." I want to emphasize the word "could".

Since you put it that way, I would like to assume that there are circumstances where you do not anticipate a negative result. Under what circumstances would you not see the block grant proposal undermining efforts to protect and serve children?

Mr. DiBARI. When I said that, Senator, what I was getting to is the Federal regulations and the hammer they somewhat hold—and I agree that they do—have made it possible to push programs in our community. I agree that they make States jump through hoops sometimes. Everything we do is in a community setting, being part of a community. I have never been able to put a program in where the initial response from the community was not that you cannot put it in our neighborhood.

The last one we did about 18 months ago was in my neighborhood, about a block and a half from my house. All my neighbors went into an uproar and said you cannot put this here.

Now it is not directly related to the regulations, but the implication that there is a Federal guarantee that children have a right to be in community, but we said they have to come here, and the school has to take them.

So what we ended up with, and what happens over and over again, was after a period of 8 or 9 months, the community then takes ownership of these kids. And I can give you example after example.

But one of the examples for that program was kids 5 to 11 years old, coming out of their homes because they have been abused,

short-term hopefully, and trying to get them back with their families. The school systems really do not want these kids. They swear. There are 5-year-olds, and they are going crazy.

The kids actually had a reception for their teachers 3 weeks ago. And the principal of that school, after the program had been there 18 months, came up and thanked me for having the kids there, and how important it was to her school to have those kids involved there. One of the first grade teachers in that school who had two of the kids happened to be the wife of our mayor. Our mayor was also there because he was the spouse of this teacher. He said that he never knew these kids could be bright. Think of what those kids are teaching our community.

I have faith in local government. I have faith in our State. I have tremendous influence in our State. Would those small two or three areas that it would not impact negatively be worth the price? I say no.

Senator GRASSLEY. So your argument basically is for keeping the Federal Government very much involved.

Mr. DIBARI. I do not see the Federal Government very much involved. What it does is provide a minimum standard. States can do from that standard whatever they need to do to be responsive to their communities. And that is what we have got to do, just keep those minimum standards.

The States are running the child welfare systems in each of the States right now. They are determining what will happen and what will not happen. What they cannot decide is to go below those minimum standards. And I think we need to keep those.

Senator GRASSLEY. Mr. Digre, you testified that your agency in Los Angeles responded to over 165,000 reports of abuse and neglect in 1994. The San Diego Union Tribune reported in July of 1992 that a grand jury found in child abuse cases in that county alone family freedoms were violated in over 300 cases. They found that 35 to 70 percent of the children who were taken from their homes, "should never have been taken from their parental homes."

After a review of the cases in Los Angeles County, how many of the 165,000 cases resulted in founded reports of abuse or neglect?

Mr. DIGRE. Of those 165,000, about 40 percent of them, or about 60,000, there was evidence that something had occurred, that the children had been mistreated. And, of those 60,000, in about 15,000 it was of such severity that we had to file a petition with the court. We had to go in with largely the same process, rules of evidence, as a civil or criminal child abuse evidence, and then enter into an adjudication process to protect the kids.

So, of the 165,000, it ends up with about 15,000 going into the foster care system. And the other 45,000 would be involved with community-based programs, parent training, family preservation and other programs where the family problems could be resolved.

Senator GRASSLEY. Dr. Horn, you mentioned a 1993 study by Toshio Tatara of the American Public Welfare Association, which found that the dramatic increase in the rate of children in foster care placements is not due to an increase in the rate at which children are entering the foster care system, but rather a significant decline in the rate at which children are exiting the system.

What are the implications of that study for the policy decisions we would make?

Dr. HORN. If you think of the child welfare system as a piece of plumbing, the pipe can burst in one of two ways. Either there is too much water going in, or there is too little water going out.

APWA researcher Toshio Tataru's analysis indicates that the problem with the plumbing in child welfare is not that there is too much water going in, or that it is going in at a faster rate, but rather there is too little water going out at the other end.

If you want to reduce the stress in the system and insure that the pipe does not burst, what you have to do is concentrate on the outflow, not the inflow. What family preservation services do is concentrate on the inflow. They do nothing in terms of the trickle of kids that are flowing out of the system.

So even if family preservation services are successful—and I am not convinced that good empirical data are available to suggest that they are—family preservation services will have a marginal impact on the stress within the system because the problem is not too many kids coming in.

What we have to do is concentrate on moving kids out. And it seems to me that one of the ways you can move more kids out of the system is through adoption.

That is one of the reasons why I am so troubled by the House bill's proposed folding of the adoption assistance subsidy program into the block grant. In my view, it will further reduce the outflow because of the financial disincentives to adoption that would occur in the absence of an open-ended entitlement to adoption subsidies.

So I suggest that, when you look at that data, we have to do more about the outflow problem. One of the major ways we can reform that is by moving more kids more quickly towards adoption, as opposed to concentrating our resources at the point of intake.

Senator GRASSLEY. Thank you.

The CHAIRMAN. Senator D'Amato?

Senator D'AMATO. Thank you, Mr. Chairman.

For anyone on the panel who wants to answer, we had testimony last month by Michael Tanner of the Cato Institute about the growth of the welfare bureaucracy. And I think some of the figures he gave us were overstated to the extent that in looking at how much of the welfare dollars which actually went to the individuals, he figured that 70 cents did not go to the people but went to some Government function or bureaucracy, and that only a small portion, 30 percent, actually went to the recipients.

Putting aside the fact that I think those numbers included rent subsidies, and they included health care costs, and that is now he got it up to 70 percent, can we effectively get dollars into the hands of the truly needy? Can we streamline today's system?

Ms. Moore, I note that you mention in your testimony the fact that you are deluged with paperwork and so forth. So what can we do to make the system more effective?

Ms. MOORE. I think that clearly there is a lot of bureaucracy that for instance, the testimony that you reference describes. In our State we have had foster care review boards for probably 22 years. I served with the Senator who passed the legislation to get those foster care review boards. We have them in all of our counties.

What we have is the foster care review board reviewing a case, the juvenile courts reviewing a case, the bureaucracy reviewing a case. But the children are not moving.

We have a lot of reviews. In essence, a worker is taking 6 to 8 hours out of their day preparing for a review or participating in a review. So they have very little time to actually work with the child, the caregiver, or the future parent for that particular child.

We need to do something to reduce the numbers of reviews and make sure the reviews that happen are of significance, so that if there is a court order that says a parent shall do this or the agency shall do that, it is done, and it is not 3 or 6 months later before you come back to that judge, or another judge or referee, and nothing has occurred.

I think we have to design a system where things get done. We have got to look at the nexus between what we say we are doing, or need to do in terms of case planning, and the impact that it is going to have.

We have a basic intervention. Every parent gets parenting classes. But how does it relate to the reason that the child is before us and that family is before us? And how is that parenting going to materially impact the ability of that family either to be reunited, or for us to terminate, insure the protection of that child, and move on?

So instead of sort of looking at all these pieces, and ask what is relevant, what is material, we have to design the system so that worker can perform.

If they say they need \$5 to get mom a cab to get from point A to point B, so she can take a baby for an immunization, they have got \$5, not 55 pieces of paperwork, and then they get \$4.50. It is not meeting the need.

Mr. DIGRE. Senator, I think one of the most basic things that could be done is removing the AFDC eligibility determination for children to be in the system. And you can keep that cost-neutral by simply adjusting the Federal share.

I could immediately return to the Federal Government about \$7 million in administrative costs. I am sure, if you add it up nationally, it would be a pretty impressive figure if that was done.

Secondly, in terms of the issue of efficiency, I would like to take a little issue with Dr. Horn. Our empirical data, based on an analysis of our zip codes is, where we have comprehensive community family preservation networks in place, over the last 2 years we have seen 30 percent less kids going to the foster care system.

Now we define family preservation as both keeping kids away from foster care in the first place, reunifying them in the second, and stabilizing adoptions in the third. Those are all encompassed in our concept of family preservation. But that is a terrific efficiency to keep kids out of the foster care system and keep them safe.

A third thing that I think would be very important is to expand the concept of adoption assistance to include relatives, aunts, grandmothers, uncles and grandfathers taking legal guardianship for kids, and allowing those kids to leave the system.

Dr. Horn is correct that the length of time that kids are staying in foster care is increasing. That is largely a function of so many

kids growing up with their aunts and in foster care with their relatives. And those are long-term stable relationships. Many of those people could be leaving the child welfare system if there was something like adoption assistance where they could get support for raising their grandchildren.

Finally, to second Dr. Horn, I think the most efficient and important program that we have is adoption assistance. I think that must be protected at all costs. It is in fact the mechanism whereby children find legally permanent homes for their whole lives and by which they leave the child protection system for good.

So anything that can be done to strengthen adoption assistance through tax credits, and through preserving that adoption subsidy program, I think is absolutely of the essence in making sure the system stays efficient.

Senator D'AMATO. Thank you, Mr. Chairman.

The CHAIRMAN. Well, I do not have any other questions. Senator Moynihan, do you?

Senator MOYNIHAN. I just have a statement, if I can, and then just a general question.

Mr. Digre, on that point about crack cocaine, it helps us to know that something happened. In the Bahamas there is a doctor who was trained at Harvard and Yale. He is a psychologist, a medical doctor, and a Doctor of Divinity.

You know the Bahamas are a nice place to live. They do not need a lot of psychiatric centers; they have one. In 1985, on a date certain, a man showed up. The previous day he had cut the head off his dog and drunk its blood, and then stabbed his brother-in-law to death. The good doctor said, "Well, now that is interesting. Do you do that often?" And he said no. So after a while it turned out that there was this new derivative of cocaine which had appeared as folk science, or folk medicine.

All the previous things like cocaine, morphine and heroin, were produced by bearded German chemists in the development of organic chemistry in Germany in the first half of the 19th century. This was worked up in a kitchen.

Pretty soon this learned, capable man said, oh, oh, something is happening. He went to Atlanta and gave a speech, and he said an epidemic is coming your way. And the Center for Disease Control in Atlanta paid no attention whatever.

A year went by, and a very fine detective, Charles Bennett, who looks after me and has always looked after Senator D'Amato, said that there was something funny in Manhattan. People are standing around on street corners going like that. He said he didn't know what it is, but we will keep an eye on it.

About 6 months later, he said they are cracking a whip. They are advertising that they have something called crack for sale.

And this has made our situation profoundly more difficult, has it not?

Mr. DIGRE. Absolutely.

Senator MOYNIHAN. So when we look around and ask if bureaucracy has done this to us—no, we have an epidemic.

I would like to make just one proposition and ask for your agreement, because I think you would agree. As we progress, Mr. Chairman, in considering the subject of welfare, I think we ought to rec-

ognize that we have two sets of issues here. One is the older issue of the orphaned child, the abused child. The post-Civil War efforts responded to these.

In New York City we began a process called the Orphan Train. Typhus did this. You would be surprised the number of problems that went away when typhus went away. But they used to put children on a train, leave New York, and take them out towards Iowa and stop from time to time. And some good-hearted Protestant farmers and their wives would come along and pick some poor Irish kid and take him and raise him like a proper Baptist ought to be raised. And they would just go until there were no more kids and turn around and come back.

I was at a luncheon and met one of these ladies, now in her seventies, who has 40 children, grandchildren and great grandchildren. She was on the orphan train. We made crude efforts, but real efforts.

But the profession of social work developed mostly around this subject, did it not?

And if I could say to my friend and colleague, Senator D'Amato, when you say how much time of the official Government goes into this effort, ask yourself when you think of raising a child, call the mother a bureaucrat, and ask how much time and bureaucracy goes into raising a child. And the answer is about 100 percent. The child does very little on its own, for a long while anyway. [Laughter.]

But then there is a second area. We put child welfare in as Title IV-B of the Social Security Act. The Committee on Economic Security recommended that. From the White House conference tradition, Hoover had wanted it.

Then there is the problem of the vast and sudden increase in single-parent families who are dependent. And they need resources from somewhere to pay the rent, which is a different phenomenon from an abused child with nobody to look after him.

So we have these two strands, do we not?

Mr. DIGRE. Yes.

Senator MOYNIHAN. I think we are not seeing this distinction. Mr. Chairman, will you allow me?

The CHAIRMAN. Go right ahead.

Senator MOYNIHAN. And you represent the first strand. Tomorrow we are going to hear from Mr. Murray, who is talking about the economic calculations that an individual might make about whether to remain on AFDC or go off AFDC, which is a different set of calculations.

Nobody has sat down and thought about the marginal economic advantages of being an abused child or an orphan. Let us see, if I am an orphan, will I get more benefits than if I am not an orphan? It is not that kind of calculation. Am I making any sense?

Mr. DIGRE. Absolutely.

Senator MOYNIHAN. You poor people. You are not in a position to say no, you are awful. [Laughter.]

That is what I thought.

The CHAIRMAN. Do any of you want to respond to his thoughts?

Ms. MOORE. No.

Dr. HORN. The only thing I would add to what you say is that the link between fatherlessness, single parent families and the child welfare system is clearly not just economic. That is, at all economic levels, the absence of a biological father in the home raises the risk of abuse for children.

Since not all children who interact with the child welfare system come from low-income families, the child welfare system is designed to work with all abused children. So there is a very clear link between the epidemic of father absence that you heralded was coming, and the increasing number of children interacting with the child welfare system. I think we are bearing the unfortunate fruit of not having addressed that issue three decades ago.

Mr. DIGRE. The child protection mandate and entitlement is not an economic assistance mandate. It is an entitlement not to be battered, not to be molested, and not to be starved. That is the whole concept. It is an entitlement for safety and to be protected.

Senator MOYNIHAN. Well said. Thank you very much.

Mr. DIBARI. As part of that, I really and truly believe that we are at a critical point in the history of our country for these issues.

If the general sense is that the last election was somewhat of a wake up call for some, I think the discussions that are going on now are a wake up call for those of us in this business.

Your decisions now are going to have an impact for the next 50 years at least. We were talking about Roosevelt's era, and now we are talking about the next era. And I think it is critical that we make changes. I just ask you do it with caution, and with due deliberation.

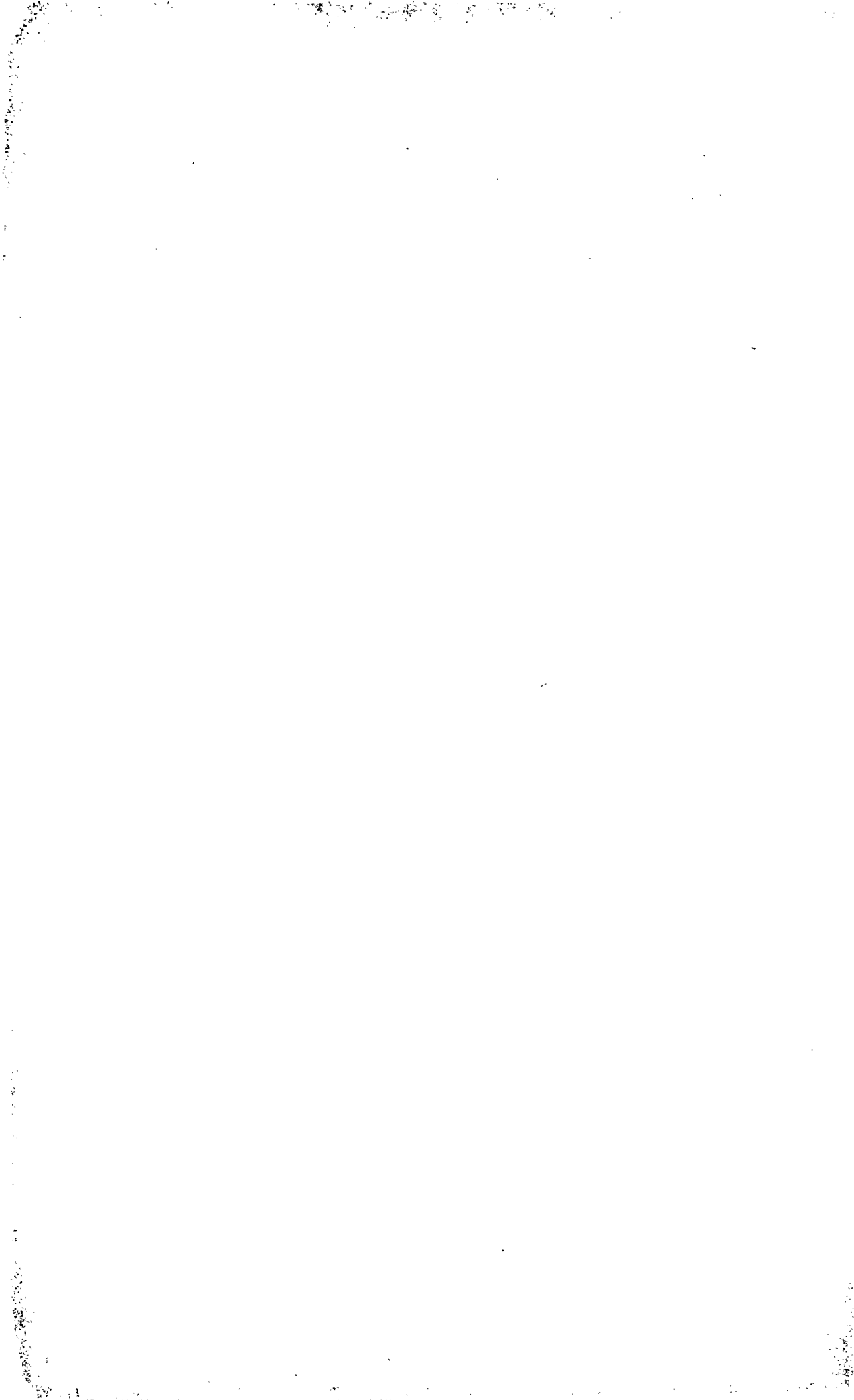
I also want to say that when we sit and talk about these things, we talk about all the negatives. There are a whole lot of positive stuff happening out there. There is a whole lot of good things happening. There are State departments that are doing incredibly good work. There are communities that are doing incredibly good work. We should not forget that part either, or we will just get caught up in trying to say that we have lost and will now just defend our positions so that we do not get hit by the loss.

We really can change, we can improve, we can succeed. I really and truly believe that.

Senator MOYNIHAN. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you all very much for a most helpful morning. We appreciate it. And we are adjourned.

[Whereupon, at 10:55 a.m., the hearing was concluded.]



APPENDIX

ADDITIONAL MATERIAL SUBMITTED

PREPARED STATEMENT OF PETER M. DIBARI

Mr. Chairman, Senator Chafee and members of the Committee, I am Peter DiBari, President and CEO of Child and Family Services of Newport County Rhode Island. I am grateful that you are holding this hearing on the child welfare system and I welcome this opportunity to testify.

Founded in 1866, Child and Family Services is the oldest and largest private, non-profit agency in Newport County and has an annual budget of over \$6,500,000. We have a staff of over 250 employees and 280 volunteers who serve thousands of children and families each year. Our programming for children and families is the most comprehensive in the state. We have home and community-based prevention and treatment programs with a strong focus on children who have been abused or who are at great risk of abuse. Child and Family Services provides a complete mix of programs from shelters and short-term diagnostic and treatment facilities to group homes and long-term independent living programs. All of the agency's residential programs are provided through contracts with the State and both entities work as a partnership to provide the most comprehensive programs possible for children.

RESPONSES TO NATIONAL TRAGEDY OF CHILD ABUSE AND NEGLECT DON'T BELONG IN GENERAL WELFARE REFORM

For us in the field, it has been very disturbing to see the issues of keeping abused and neglected children safe swept up and lost in the debate over general welfare reform. Child welfare has a distinct and especially vital mission: the protection and care of abused and neglected children.

Child abuse and neglect is a critical and escalating problem in our country. In 1994, 3.1 million children in the United States were reported physically, emotionally, or sexually abused or neglected. The number of child abuse fatalities and reports of child maltreatment increased more than 50 percent over the last ten years. In 1994, 1271 children died of abuse or neglect. Nearly one-third of these children were under the age of one.

Please let me be clear on who the children are in the child welfare system are. They are not the children of families who are poor or down on their luck. These are children:

- who are seriously abused—severe head injuries resulting in a life time of paralysis and semi-consciousness spent in nursing homes
- who are raped repeatedly by adults—as young as four weeks old with venereal diseases, a five-year-old child with cerebral palsy sexually assaulted in her crib
- who are killed-burned to death in furnaces, hacked to death, drowned when forced to drink gallons of water.
- who suffer from severe neglect—no food no care or supervision, no medical care
- who are abandoned—a six-year-old boy pushed from his car and left on the interstate

Our ability to protect these children depends on the commitment to child protection and the resources made available to meet this commitment. The funding child protective services agencies receive dictates whether abused and neglected children receive any attention, whether the community has any preventive, treatment, supportive services to offer, and whether a family receives the help it needs to stay together safely

Between 1982 and 1992, the number of children in foster care increased by 69 percent to 442,000. These are the abused and neglected children who have been separated from families unable or unwilling to care for them, and placed in out-of-home

foster care, kinship care, group homes, residential facilities, or with adoptive families. These are children who are the legal responsibility of the state.

Children in foster care are a microcosm of the most challenging and devastating social problems that confront America: poverty, crime, family violence, malnutrition, neglect, poor health, alcohol and drug abuse, and HIV infection. State child welfare systems are overwhelmed with their responsibility to care for the number of children in need of protection, and by the increasing number of parents unable to fulfill their traditional protective responsibilities.

Mr. Chairman, I have worked in the child welfare field for 20 years. I concur wholeheartedly with the Congressional desire to reexamine the effectiveness of current federal efforts on behalf of abused and neglected children. There is no argument that the child protection system needs repair. But the House-passed Child Protection Block Grant included in the Personal Responsibility Act is a dangerous, short-sighted tact. This measure would rescind the federal commitment to ensure the safety and care of abused and neglected children. It would repeal the federal guarantee of foster care and adoption assistance to abused and neglected children who cannot live safely at home, and cut anticipated federal support by billions of dollars that are necessary to fulfill our nation's promise to protect these vulnerable children.

Because the House proposal ends the guaranteed support of the federal government, states would have to find additional resources or deny help to abused and neglected children. Reports of abuse and neglect would continue to go uninvestigated. Children would be left in unsafe homes. Preventive services might no longer be funded. Children would remain longer in foster care awaiting adoptive homes. Despite a state's best efforts, more children would suffer.

The House bill will only exacerbate existing problems. Real improvements will only come with a commitment of purpose, careful reexamination and adequate funds. General welfare reform is not the place to do this.

NEEDS ALREADY STRETCH STATES, LOCAL COMMUNITIES AND THEIR SYSTEM TO LIMIT

The system to keep these children from further harm has been grossly underfunded. Some states and counties cannot investigate up to 80 percent of the reports of abuse and neglect they receive. Can you imagine your local fire department going out on only 20 percent of the calls for help? The crises for our most vulnerable children and families would likely worsen if public assistance, child care and other family supports are also reduced.

I agree that local communities are best suited to look after these children. But the fact is that the primary governmental responsibility for child welfare services now rests with the states. Each state has its own legal and administrative structures and programs that address the needs of children. States have widely varying capacities and experiences in meeting the needs of their most vulnerable young citizens. Vastly different resources and expertise are the rule. These wide variations have tremendous implications for children.

There are many thousands of individuals, in every state and jurisdiction, who are deeply committed to the care and safety of children. These people everyday protect and serve children at risk and help families learn better ways to manage their own affairs. Their dedicated efforts provide the front line assistance that children need, and these workers deserve great recognition for the important work they perform. But the task is awesome and the solutions are complicated.

Charitable organizations cannot pick up the slack. They already subsidize almost 30 percent of the cost of residential group care with charitable dollars, and their resources are stretched to the limit.

BLOCK GRANT ENDING ENTITLEMENT TO PROTECTION AND FEDERAL OVERSIGHT WOULD PLACE MORE KIDS AT RISK

Despite the best efforts of local communities and state governments, the work of the nation's public and private child welfare agencies will remain insufficient to the task unless there is more national leadership, greater accountability at all levels, and more, not fewer, resources dedicated to the care and protection of children. A national strategy is necessary and must be tied together by the federal government working in partnership with states and local communities in the public and private sectors.

On behalf of myself, my agency, and the Child Welfare League of America, a national membership organization of over 800 public and nonprofit child serving agencies, I urge that an entitlement be maintained to ensure that children receive the services they need to keep them safe. A block grant that would eliminate the individual guarantee of support could severely undermine state and local community ef-

forts to protect and serve children. Many of these children are in state custody. In other words, the state is their legal parent. They should not have to depend on an accident of geography to be protected. We also must ensure enforceable protections for children in whatever systems are put in place. Accountability that includes a range of sanctions with real teeth is needed.

According to a recent survey by the National Committee to Prevent Child Abuse, 96 percent of state child welfare administrators have serious concerns about the House-passed child welfare block grant and fear that it will have a negative impact on service delivery. These are the people responsible for the day-to-day operations of child welfare systems and the care of abused and neglected children. These administrators fear a significant loss of funding and the loss of federal leadership in protecting abused and neglected children. These findings affirm similar findings from a survey by the Child Welfare League of America earlier this year.

The federal government has an important role in enabling the states to do their jobs by providing guidelines for protection and enforcing the protections when they are ignored. The children needing protection and care have greater and more complex needs than ever. They require sound assessments and timely and appropriate services. A child welfare block grant would only further compromise children's safety should it eliminate the services' guarantees, fail to specify protections and lack enforcement.

**FEDERAL GUARANTEE OF CARE AND ENFORCEABLE PROTECTIONS ARE ESSENTIAL TO
KEEP ABUSED AND NEGLECTED CHILDREN SAFE**

I genuinely believe that we are all people of good will who want to do well by these children. But the fact is that when there are overwhelming and disparate societal pressures and financial constraints, children get lost in the shuffle. Until all communities make children at risk a very top priority, we must have federal mandates and protections to press them to do so. The federal government must assure that children, regardless of their geographic location, receive the basic services they need to ensure their safety.

The principles passed by Congress in 1980 and contained in the Adoption Assistance and Child Welfare Reform Act (P.L. 96-272) are strong and appropriate. This law's emphasis on making all reasonable efforts to allow abused and neglected children to remain in their own homes with their own families, if it can be done safely, is the proper central tenet in providing assistance to troubled families and their children. In many jurisdictions across the country, progress has been made in introducing family-focused, child-centered services in response to abuse and neglect; many children have been able to remain safely at home or safely returned to their homes after receiving short or long-term placements because of P.L. 96-272's commitment to reasonable efforts and family reunification. This is an accomplishment with which we can be pleased.

Specifically built into the law are the following priorities:

- providing supports to families in order to prevent separation of children from their families
- where separation is necessary, providing support services to enable children to be reunited with their families
- where reunification with their own families is not possible or appropriate, providing services that enable children to be adopted or placed in permanent foster homes with some form of legal protection.

To accomplish the above purpose and priorities, the law incorporates a number of procedural reforms and fiscal incentives:

- Provision of preplacement and postplacement services to keep children in their own homes or reunite with their families as soon as possible. These are sometimes referred to as services that must satisfy the "reasonable efforts" clause of the law.
- Requirements of case plans, periodic reviews, management information systems, and other procedures to ensure that children are removed from their homes only when necessary and are placed with permanent families in a timely fashion.
- Redirecting federal funds away from inappropriate foster care placement and toward permanent alternatives, particularly adoption.
- Establishment of adoption assistance programs, specifically federally funded subsidies for adoption of children with special needs, such as older, disabled and minority children.

Society as a whole is responsible for child protection. Hopefully, over time, this premise will be so ingrained that we will have no need for federal directives. Until

that time, child welfare is one province where the federal government has a critical obligation.

Abused and neglected children deserve far better than what the House of Representatives has dispatched to the Senate and better than what might be accomplished in sweeping, general welfare reform. As you move forward, I urge that you

1. Keep child protection separate and out of general welfare reform
2. Preserve the guarantee of care and individual entitlement to foster care and adoption assistance for children who cannot remain safely at home. Block granting the entitlements would undermine the ability to protect and serve children.
3. Maintain federally enforceable protections.

Thank you for this opportunity to present our concerns and suggestions. I want to work with all of you to make the best policies we can to protect abused and neglected children.

Attachment.

GUARDING CHILDREN'S RIGHTS • SERVING CHILDREN'S NEEDS

FREQUENTLY ASKED QUESTIONS REGARDING FEDERAL FOSTER CARE ASSISTANCE

What is Title IV-E foster care assistance?

In 1980, Congress passed the Adoption Assistance and Child Welfare Act (P.L. 96-272) to achieve the following goals: (1) prevent unnecessary placement of children in foster care; (2) encourage timely reunification of children in foster care with their parents when safe and appropriate; and (3) promote expeditious adoption for children unable to return home, in order that they have a safe, nurturing family. Title IV-E is the funding source for the implementation of the safeguards contained in P.L. 96-272.

Who does Title IV-E foster care assistance help?

P.L. 96-272 was written to create minimum national standards for the protection of abused and neglected children, including those in foster care. Federal laws help to safeguard abused and neglected children from further harm and ensure children find safe, permanent homes. The Act helps children by placing requirements on state agencies and courts and providing them with incentives to encourage a more active and systematic monitoring of children in the foster care system. These requirements include the following: speedy and coordinated responses to reports of child abuse and neglect; tracking and impartial review of cases involving abused and neglected children in foster care to make sure they do not get lost in the system; timely court decisions about whether to send children home or place them for adoption; and financial assistance for the adoption of abused and neglected children who are difficult to place with adoptive families because of special needs.

What will happen if the Adoption Assistance and Child Welfare Act is repealed and replaced by block grants?

- If the current entitlements to individual abused and neglected children are stripped from the existing child welfare system through the implementation of block grants, state and local community efforts to protect children through the service of foster care will be severely undermined. Children who have been abused and neglected in their own homes need a safe haven where care and support can be provided until their families can offer them the care they need, or until other permanent arrangements can be made. These children are in state custody, and the state has a moral and legal obligation to provide services to these children as they function as their legal guardians.
- States may have to pick and choose among vulnerable children. For example, children entering the foster care system in need of protection at the wrong time in a state's budget cycle—such as the end of the fiscal year—may be turned away at great risk to the children.
- Without the national protections contained in P.L. 96-272, returning children home safely and providing services to bring this about may no longer be the first priority. Biological families of children in foster care have multiple and complex needs which might include emotional difficulties, acute and chronic health problems, chemical dependency, and problems with homelessness or living in substandard housing in violent, dangerous neighborhoods. Unless biological families and their children can be provided with support services to improve families conditions and assist them in coping with the complex problems they face, reunification attempts will fail.

- **If Title IV-E funding for administrative costs and training is reduced, larger numbers of children will likely come into foster care, stay longer, and receive limited and inadequate services.** Administrative and training costs currently constitute a critical component of IV-E funding. In the context of child welfare services, these costs include the services of caseworkers who work day in and day out with children, their families, and the foster parents, not simply the more obvious costs associated with this term such as rent, equipment, and office supplies. For example, funding for services including getting a wheelchair for a child, arranging visits for a child in foster care with her mother, consulting with a child's school, or coordinating a support group for abused teenagers all fall under the category of administrative costs.
- **Foster parents may leave the system if they do not get the support and training they need.** Even though economic factors have contributed significantly to efforts to recruit and retain foster parents, surveys of foster parents repeatedly find that the primary reason foster parents leave is the lack of agency responsiveness, communication, and support. Specifically, they want more consultation and support from skilled caseworkers and more training on how to care for today's children. If child welfare agencies must operate with fewer caseworkers, foster parents will not get the support and guidance they need to care for these children. States faced with a lack of available foster parents will be put in the position of having to place children in the non-family, more costly, more restrictive environment of residential care.
- **Foster care licensing, and consequently safe care for children, would most likely be affected by funding limitations, increased flexibility notwithstanding.** Historically, foster care licensing has been severely underfunded, yet it serves a critical gatekeeper function to screen out inappropriate foster families and child caring facilities. As a result, we would likely see an increase in child abuse and neglect reports of children in the custody of the state due to inadequate attention to licensing.

PREPARED STATEMENT OF PETER DIGRE

INTRODUCTION

Senator Packwood, Members of the Committee. Thank you for the opportunity to testify today. My name is Peter Digre and I am the Director of the Los Angeles County Department of Children and Family Services, a public child protection agency which, during 1994, responded to more than 165,000 reports of child abuse and neglect. Today, and every day, I am personally responsible for the protection, care and nurturance of almost 60,000 children.

CONTEXT

As you know, last month the House of Representatives approved H.R. 4, The Personal Responsibility Act. I understand that this committee will be crafting its own plan for restructuring the welfare system. You may, however, look to H.R. 4 for a portion of that plan. Therefore, I want to share with you my concerns about the unintended effect of H.R. 4 on abused and neglected children.

My concerns relate to the need for both minimal national standards, and funding that is responsive to the number of endangered children needing protection. The Child Protection Block Grant, proposed by the House as part of Welfare Reform, places both of these critical components at risk, by eliminating Title IV-E of the Social Security Act. Without them, children throughout this nation will be needlessly endangered by the government agencies which are supposed to serve as their protectors when all else has failed.

I hope that the information that I present today, will assist you in developing a plan that is responsive to the needs of the children of this Country, and to strengthening families and communities nationwide.

OUR FIRST PRIORITY MUST BE CHILDREN AND THEIR SAFETY

Virtually every week, if not every day, on our television networks, radio programs, in newspapers and magazines, we see, hear and read about children who have been abused and neglected—children who suffer at the hands of those whom society has trusted to nurture and raise them. Often, these people are the parents who have brought the children into the world; sometimes they are temporary caregivers whom agencies like mine have asked to protect children who have already suffered abuse.

Tragically, there are times in which the child protection system itself fails to live up to the minimal standards required to ensure the safety of children.

The American public agonizes for each and every one of these children and their families. Overwhelmingly and universally, the American people demand that the safety and nurturance of children be the first priority for all elected and appointed officials. The media knows the depth of this passion and holds us all strictly accountable.

Currently, national standards and the provision of adequate funding permit us to respond to this demand. The Child Protection Block Grant will severely hamper our ability to respond to it in the future.

IMPACT OF REFORM PROPOSALS ON ABUSED AND NEGLECTED CHILDREN

H.R. 4, as approved by the House, would have two primary impacts on child protection. First, it would eliminate all Federal standards for child protection. These standards ensure a minimal level of safety for children living in every state. Second, the proposed Child Protection Block Grant would reduce and cap funding for child protection so that the system could no longer respond to increased numbers of children needing care. At the same time, curtailments in AFDC benefits will shift enormous numbers of children from the welfare system into the child protection system. Without adequate resources to ensure the safety of the additional children who need protection, only the most severely abused and neglected children will be served. Many others will remain at risk. Clearly, this type of legislation will result in a drastic decline in the safety and quality of care for children in the child protection system.

THE SAFETY OF CHILDREN DEMANDS BASIC NATIONAL STANDARDS

Public Law 96-272, the Child Welfare and Adoption Assistance Act of 1980, was the result of many years of work by child protection professionals, child advocates and members of Congress. This measure has enjoyed strong bipartisan support.

The standards created by PL 96-272 were intended to remedy deficiencies in existing child protection systems by requiring that every State's system comply with each of the Section 427 child protections. H.R. 4 eliminates these protections (the attached chart details the Federal protections which would be eliminated).

These protections represent the essence of sound practice, a common sense approach to assuring that each child and family will be well-served. They guarantee the existence of such critical programs and activities as Adoptions Assistance, Independent Living, Family Preservation and Support, and licensing requirements for caregivers. They also require procedural protections like a case plan, periodic foster care status review, administrative review and procedural safeguards relative to parents' rights. They are the only assurance that child protection services are provided in a deliberate, thought-out fashion, with continuity and consistency across the country and throughout the period of time children are in the government's care.

In fact, rather than eliminating these national standards/protections, they should be enhanced by including the following requirements that are vital to the safety of every child and providing support for them:

1. We know that abused children can be injured or neglected by caregivers if they are not closely supervised. Clearly, minimal standards for supervision are a basic protection.

2. We know that children can be left in the care of child molesters when criminal and child abuse background checks are not completed. States should be required to do these checks on every caregiver.

3. We know that "reasonable efforts to prevent placement" is a meaningless concept, unless comprehensive family preservation services are uniformly available. Family preservation should be highly structured and available.

4. We know that without training, education, housing and employment, emancipating foster youth often find themselves homeless and forced to support themselves through prostitution and crime. Basic requirements to prepare foster youth for independence are essential.

5. We know that children with complex medical and developmental problems can be adopted with specialized adoption subsidies. These subsidies should be maintained and enhanced with additional supports for adoptive families.

6. We know that child protection workers who are carefully trained will make better assessments and implement services to ensure child safety. This training should be a basic protection.

7. We know that special training for caregivers will improve the quality of care provided to children in out-of-home placement. Such training should be required to obtain a foster care license in every state.

FUNDING MUST BE AVAILABLE FOR EVERY CHILD REQUIRING PROTECTION

In addition to eliminating Federal standards, the Child Protection Block Grant proposed by the House of Representatives will significantly reduce funding for child protective services, including adoptions assistance, family preservation, foster care, child protection supervision and support for emancipating foster children to achieve independence. The Block Grant would replace workload responsive funding with capped resources so that funding would not increase as the number of children requiring protection grows.

To begin with, the total amount of funding will be significantly reduced (relative to the current system) over the next five years. Additionally, beginning in 1998, the House proposal would allow up to 30% of the funding for child protection to be diverted to other block grants, creating the potential for a more significant funding shortfall. Lastly, H.R. 4 would eliminate the currently required State match for child protection funding after two years. The potential loss of State funding, along with capped and reduced Federal funding would be devastating.

Such a underfunded system would be incapable of responding to social or economic crises which may force more children into the child protection system without warning. We have seen these crises in the crack cocaine epidemic of the 1980s and the recession of the 1990s. Unless funding can expand to meet the needs of increasing numbers of children requiring protection, there will be more child endangerment, less child visitation, fewer adoptions, less family preservation efforts and less emancipation preparation for our foster youth. "Local flexibility" will mean little more than local governments eliminating services and protections to abused and neglected children.

ANTICIPATED SHIFT OF CHILDREN

Adequate funding is particularly critical because of the potential demand for services created by reductions in AFDC benefits for millions of children across the country due to time limits and changes in eligibility requirements. The United States Department of Health and Human Services (HHS) estimates that when H.R. 4 is fully implemented, benefits would be denied to over 5 million children nationally. Our experience with the recession and California's 1992 AFDC cuts shows that when families suffer economic stress, the number of children requiring protective services increases dramatically. When these cuts are put into effect, the nation's foster care population may well grow geometrically. Increases in the incidence of abuse and neglect will result from:

- a loss of economic stability for many families which will cause a significant increase in the number of neglected children due to the parents' inability to adequately care for their children. In Juvenile Court statutes throughout the Country, the definition of "neglect" includes lack of food, clothing, shelter and medical care. Therefore, many of the children removed from public assistance would enter the child protection system due to the inability of their parents to provide for the basic essentials of life;
- an increased number of children reported as abused as reflected in Los Angeles County's experience with the 1992 5% AFDC cuts. Despite progress on many other fronts (e.g., declining drug use, a stronger economy, etc.), the number of children in Los Angeles County needing out-of-home placement increased by 10% after these cuts went into effect because economic stress on the family leads to physical abuse and neglect; and,
- reduction in the effectiveness of family preservation and/or reunification efforts, since AFDC often provides the financial support necessary for families to stay together or reunite. The AFDC reductions will lead to increased numbers of children languishing in the child protection system at a significantly higher cost to both children and government.

The attached chart demonstrates the intimate relationship between the economic opportunities and well-being of families, and the reporting of child abuse and neglect. Given the relationship between economic hardship and the increased entry of children into the child protection system, it is predictable that a significant proportion of children for whom assistance is terminated or curtailed will enter the child protection system.

If the Child Protection Block Grant is implemented at the same time as more children require services, the child protection system will be confronted with an open-ended mandate. Juvenile Courts will place countless numbers of new children in the foster care system, with no way to pay for their care.

To use my own county as an example, there are currently 622,000 children in Los Angeles County who are receiving AFDC. If benefits for half of these children are ultimately curtailed or eliminated as HHS predicts, 311,000 children will be im-

pected. If only 1 out of 20 of these children require protective services, we would be faced with an influx of 15,550 additional children. It would cost an additional \$185 million annually (\$12,000 per child) to provide foster care for these children. If Federal funds are block granted and capped, the cost of foster care alone, would necessitate the curtailment of most other critical services.

Without hyperbole, we can reasonably conclude that there would be a drastic decline in the quality of care and safety for children in the child protection system as "capped" resources are required to provide for growing numbers of children. There will be more children per caregiver, less support and less training per caregiver, less supervision and treatment for children, less preparation for independence, fewer adoptions, fewer family preservation efforts . . . the consequences may well be tragic.

RECOMMENDATIONS

These are my concerns about the impact of block grants, as proposed by H.R. 4. I would also like to offer several recommendations that could improve the efficiency and effectiveness of the child protection system, without compromising the care that children receive:

1. Maintain Title IV-E Protections and Funding

The standards presently incorporated in Title IV-E and the workload responsive funding system must be maintained to ensure the safety of children. Critical programs like Adoptions Assistance, Independent Living, Family Preservation and Support, and training must also be maintained.

2. Increased Efficiency and Flexibility with Title IV-E

I believe, however, that we can simplify the method by which the Federal government allocates funding for foster care and create a more efficient and effective system, without sacrificing children's safety.

Currently, the Federal government pays a portion of the cost of foster care only for those children who meet the eligibility requirements for AFDC. Significant staff resources, partially funded by Federal dollars, are dedicated to determining such eligibility. In Los Angeles County, approximately 75% of our children are "Federally eligible" for foster care funding.

I propose creating "universal eligibility" for Federal foster care funding, by unlinking AFDC and Foster Care, so that every child requiring out-of-home care would be eligible for such funding. In Los Angeles, coverage would rise from 75% to 100% for our children without a corresponding increase in the overall Federal contribution.

Establishing "universal eligibility" achieves two critical things—first, it creates a national investment in every abused or neglected child. Second, it eliminates the need to devote staff time to determining Federal eligibility. The substantial savings gained by eliminating eligibility determinations, would in effect, pay for any added numbers of children requiring care.

Additional flexibility should be provided to spend dollars for early intervention programs. In Los Angeles County, we have witnessed the positive impact of family preservation services. In areas where family preservation services are available, the need for foster care placements has leveled off. Elsewhere in the County, it continues to rise.

California allows a portion of the money budgeted for foster care placements to be shifted to early intervention programs (AB 546). States and counties should be permitted to use Federal dollars in a similar manner. This additional flexibility would ultimately save the Federal government money, as foster care placements decrease.

3. Block Grants of Categorical Discretionary Programs

Certain block grants would work to benefit states and counties. For instance, there are approximately 15 categorical discretionary programs that could be candidates for a block grant. Some, like the grants to improve the investigation and prosecution of child abuse cases, are small—only \$1.5 million appropriated in FY 1995. Others involve highly specialized programs, such as Crisis Support Centers.

I believe we can more efficiently and effectively administer such programs and respond to local needs through a single block grant. Any block grant must maintain Federal protections for children, provide adequate funds, maintain a State match, and prohibit the transfer of funds out of the block grant. Additionally, the block grant should be administered in accordance with the Family Preservation Act model which includes an extensive community planning process.

4. Increased Incentives for Adoption

Adoption is the preferred outcome for the children in foster care who cannot return to their own homes because of abuse and neglect. In Los Angeles County, in the twelve months ending September 1994, we placed more than one thousand children whose parents' rights had been terminated by the court, in permanent and loving adoptive homes. Many of these adoptive placements could not have been achieved without the Title IV-E Adoption Assistance Program. This program must be maintained.

To make this program even more effective, the concept of tax credits for adoption, as an additional incentive for permanency for children, merits analysis.

5. Program Integration

As our Family Preservation program experience has shown us, we need an even greater capability for accessing additional programs and services for troubled families. Examples include Substance Abuse Prevention and Treatment programs, Housing Assistance, and Title XIX Medicaid, to assure a full range of services for families with multiple problems. These programs should be better coordinated with the child protection system.

CLOSING REMARKS

In closing, I would like to say once again that a commitment to child safety, protection and nurturance requires that all welfare reform and the Child Protection Block Grant proposal be carefully analyzed for their effects on the well-being of our Country's children.

I'd also like to reiterate my conviction that national standards in child protection services provide the incentives and mandates for good practice, sound programs, and consistency for all children. We need to enhance the standards for child safety, not curtail them.

I have recommended a variety of ways to improve our child protection policy, which would also provide to states an improved ability to deliver critically needed services.

I am honored to have had the opportunity to contribute to this crucially important discussion. I remain available to work with you in your efforts towards improving protection for children and strengthening families.

I am in awe of the magnitude of the decisions you must make since they will effect the lives, health and safety of millions of children.

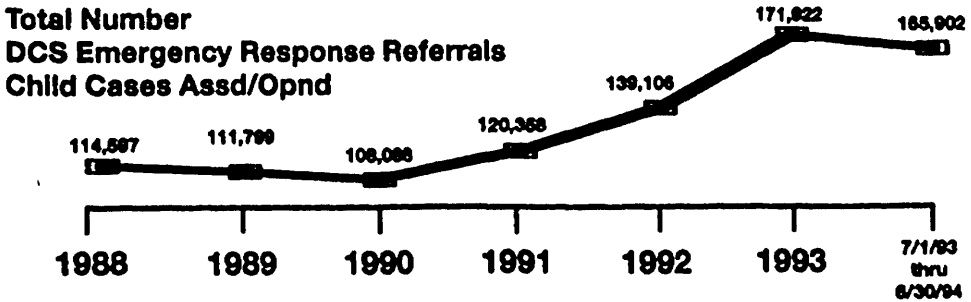
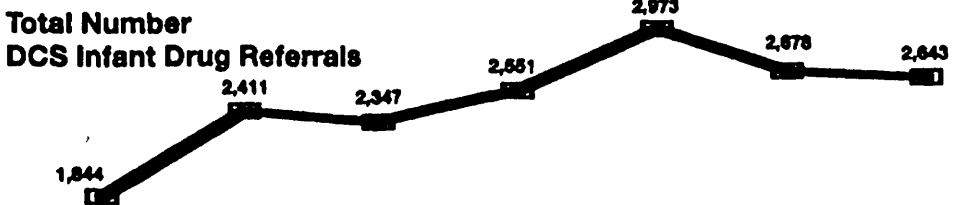
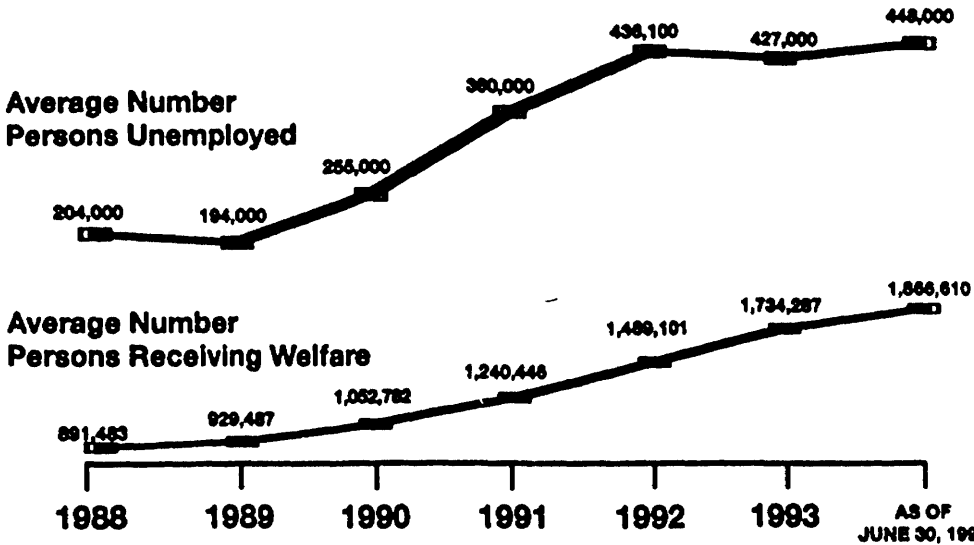
Attachments.

**COMPARISON OF CURRENT FEDERAL CHILD WELFARE LAW
WITH THE CHILD PROTECTION BLOCK GRANT**

PROTECTIONS FOR CHILDREN AND FAMILIES/REQUIREMENTS OF STATE CHILD PROTECTION AGENCIES ACCEPTING FEDERAL FUNDS	CURRENT FEDERAL LAW	PROPOSED CHANGE
Reasonable efforts must be made to keep children with families when it can be done safely.	yes	REPEALED
After placed in foster care, reunification of children with families must be considered if it can be done safely.	yes	REPEALED
Children may be placed only in State licensed facilities.	yes	REPEALED
Parents' rights related to the removal of the child, change in the child's placement and determinations affecting visitation are safeguarded.	yes	REPEALED
Children removed from families must be placed in the "least restrictive setting" appropriate and in close proximity to home when possible.	yes	REPEALED
A permanent home for a child removed from family must be achieved, whether returned to home or placed in adoptive home, guardianship, or long-term foster care.	yes	REPEALED
Secretary of HHS may initiate a review of state compliance and may establish guidelines and offer technical assistance as needed.	yes	REPEALED - except for a minor involvement in data collection, HHS is expressly prohibited from evaluating state performances and establishing regulations.
Every child assured protection with access to the federal courts to ensure compliance with law.	yes	REPEALED
State courts must review the status of each child in long-term foster care.	yes	REPEALED
Fair hearings will be made available to any child or parent who is denied protection or assistance.	yes	REPEALED
Judicial and administrative reviews are open to parents of the child in foster care.	yes	REPEALED
Individuals who report instances of child abuse or neglect are immune from prosecution under State and local laws.	yes	REPEALED

PROTECTION FOR CHILDREN AND FAMILIES/REQUIREMENTS OF STATE CHILD PROTECTION AGENCIES ACCEPTING FEDERAL FUNDS	CURRENT FEDERAL LAW	PROPOSED LAW
In every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceeding.	yes	REPEALED
Individual case reviews are conducted by panels of appropriate persons at least one of whom is not working directly with the child or parents.	yes	REPEALED
Information about parents and children in the child protection system is kept confidential and will be disclosed only for certain specified purposes.	yes	REPEALED
Foster care adoption subsidies are available to all children who cannot remain safely at home irrespective of the increase in numbers of children needing foster care or of the condition of state finances or national economic downturns.	yes	Individual entitlement for foster care is REPEALED
Adoption subsidy is guaranteed for "hard to place " special needs children to facilitate their adoption.	yes	Individual entitlement for adoption subsidies for children with special needs is REPEALED.
States are guaranteed federal funding to provide preventive services such as family preservation and family support to help children remain safely with their families.	yes	REPEALED
States are guaranteed federal funding to provide youths 18 to 21 years old with independent living services to ease their transition into adulthood and into the workforce.	yes	REPEALED
Foster care maintenance payments and adoption assistance payments must be periodically reviewed to assure their continuing appropriateness.	yes	REPEALED
Training plans for child protection staff, foster parents and child care staff must be developed.	yes	REPEALED

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



COUNTY WELFARE DIRECTORS ASSOCIATION OF CALIFORNIA

(FRANK J. MECCA, EXECUTIVE DIRECTOR

PATRICIA CRAIG, FEDERAL LIAISON)

The County Welfare Directors Association of California supports many of the welfare reform provisions that are under consideration, especially those that will lead to improved work opportunities and focus efforts within reasonable time limits. We support block grants for the smaller, discretionary programs and believe that time-limiting welfare benefits can be made to work if there is flexibility for states to make exemptions when justified. We support requiring teen mothers to live at home or in a supervised arrangement in order to receive assistance. We support making sponsor agreements for legal immigrants enforceable.

We believe that a lot of these reforms can take place without turning to fixed block grants, and that the entitlement nature should be retained for AFDC, Foster Care, Adoptions Assistance, and Medicaid.

In particular, CWDA supports keeping Foster Care and Adoptions Assistance separate from the Child Protection Block Grant that was adopted by the House in HR 4.

CWDA urges the Senate to maintain the current Title IV-E Foster Care and Adoptions Assistance program, including administration and Medicaid, and opposes block granting or capping of these programs.

The County Welfare Directors of California administer the full range of children's services, from responding to child abuse and neglect reports, to providing prevention and family preservation services, to out of home care and adoptions, and training staff and caretakers to deal with the special needs of children in the system.

The California counties collectively are paying \$570 million of county dollars toward the cost of these services in this fiscal year. Almost all of these funds come from the property tax base, which offers little or no flexibility to accommodate continuing growth in the need for children's services.

We have successfully implemented Family Preservation services statewide, building on several county pilot programs that preceded the federal legislation. Availability of federal funds enabled expansion to all our counties of these critical services.

Yet, despite the success of family preservation and other prevention efforts, foster care continues to grow at a steady rate, as have child protection referrals. While the growth rate has dropped gradually as the crack epidemic leveled off, it remains sensitive to unemployment and economic distress.

The growth permitted in the HR 4 Child Protection Block Grant over five years would have to cover inflation as well as foster care caseload growth and more adoption subsidies, as well as other cost increases due to factors like increased child abuse reporting.

We are concerned about block granting Foster Care for several reasons:

Funding should reflect need. Foster care services are in every sense of the word mandatory, on the community and the government. It is the ultimate safety net for vulnerable children. Such care, when indicated cannot be safely postponed or denied. Yet funding shortfalls force counties to "triage" cases, giving preference to children in imminent danger and leaving others at risk in questionable circumstances. One county in California is currently facing these unfortunate choices, due to funding constraints and large welfare caseload increases. Therefore foster care funding should respond to demand, rather than forcing programs to fit capped block grants.

Foster Care can drain resources away from other child welfare services. Within a block grant of other child protection services, foster care will utilize a disproportionate share of funds, potentially shortchanging resources for valuable "up front" services that can prevent out of home care or lead to a timely permanent placement solution such as adoption.

Under state guidelines following a \$55 million cut in child welfare services budget, California counties have responded only to the most severe cases of reported child abuse and neglect. Neglect reports and abuse of older children, unless there is severe injury or sexual abuse have low priority for response, and many are not served. With a block grant, the severely dysfunctional families that do enter the system will have to compete for service dollars with foster care, much of which is court ordered.

Long-term solutions for children may suffer. A high proportion of children in foster care are in for the long term, so no cost reduction is likely. Children are coming into care at a young age, many because of parents' crack addiction or AIDS exposure, and are entering long term care from infancy. Adoption subsidy also requires a long-term commitment of funds. Lack of assured, ongo-

ing resources to meet these commitments may serve as a disincentive for states and counties to pursue permanency planning in timely ways.

AFDC changes may impact the foster care system. CWDA believes that some provisions adopted in the House bill would result in additional demands on foster care. Parents who lose benefits or are denied under new rules and do not find work may be unable to provide for children and turn to foster care for their children. These are hard to estimate, but our experience shows that 3 child protection and foster care caseloads do rise in times of severe economic distress in communities. The proposed foster care block grant does not accommodate this unanticipated growth.

Administration funding is critical. Title IV-E administration funds is the glue that holds the system together. It pays the staff, which is the operative and critical element in counties' ability to safeguard children from further harm and to move them permanently into nurturing families. Administration dollars help provide training for social workers and foster caretakers, which is essential in dealing with abused and emotionally disturbed children and their families.

California counties pay 30% of the non-federal cost (15% of the total) of IV-E administration, as well as 30% of the cost of other child welfare staff. Many find it difficult to pay the match when additional staff are needed. If the federal funds are capped, most counties would be unable to raise the cost of adding staff, no matter how critical the need. Larger caseloads and attrition of positions would result. One county found that the cost of maintaining staffing levels rose by 13%, while the caseload declined slightly from 1992 to 1995.

CWDA urges the Senate to maintain the current federal matching for foster care administration.

Many SSI "Zebly" children are in foster care. Costs of care for children now in out-of-home care and receiving SSI due to Individual Functional Assessment (IFA) will shift to the counties. These costs are not calculated in the Child Protection Block Grant contained in HR 4. Most of these IFA children are severely emotionally disturbed and often are in specialized treatment settings. Peter Digre has testified to the numbers and cost for Los Angeles County. Other counties estimate varying costs. Santa Clara County estimates that some 113 children will lose SSI benefits, and that the county will have to make up at least \$550,000 annually in foster care costs.

CWDA urges the Senate not to terminate benefits and Medicaid for these children.

Finally, the County Welfare Directors Association of California will be pleased to work with the Committee on needed changes in the Title IV-E programs. We strongly urge that review and revision of these programs be postponed until states and counties have had ample opportunity to implement and adjust to the massive changes that seem to be in store for the AFDC, Food Stamps, and social services programs. The upheavals that will occur at the state and local operations level can only be imagined. There is no need to subject the children's programs to such rigorous change at the same time.

CALIFORNIA COUNTIES CONTRIBUTION TO SELECTED WELFARE AND SOCIAL SERVICES PROGRAMS

(Current FY Figures)

Program	Benefits % Non Federal Share	Administration % of Non Federal	Total County Contribution
AFDC	5.8% / \$168.6m	30% / \$111.1m	\$279.7m
JOBS (GAIN) Support Services		30%	22.0m
Foster Care IV-E	60% / 420.5m	30% / 8.5m	429.0m
Adoptions Assist.	25% / 20.4m	30% / 1.1m	21.5m
Child Welfare	30% / 119.5m		119.5m
In Home Support Services	35% / 223.0m	35% / 20.3m	243.3m
Food Stamps		30% / 52.6m	52.6m
General Assistance	100% / 450.0m	100% / 25.0m	475.0m
Other: IV-D Child Support (Administered by District Attorneys)	n/a	not available	116.7 m

CALIFORNIA COUNTIES CONTRIBUTION TO SELECTED WELFARE AND SOCIAL SERVICES PROGRAMS—Continued

(Current FY Figures)

Program	Benefits % Non Federal Share	Administration % of Non Federal	Total County Contribu- tion
Total Counties Share of Federal Assistance Programs:			\$1.284 billion
(General Assistance Not Included)			

The County Welfare Directors Association of California represents the professional managers of all 68 counties, who administer federal, state, and county welfare and social services programs. County governments in California pay a substantial portion of the cost of AFDC, Foster Care and Adoption Assistance, JOBS (GAIN), In Home Support Services for disabled persons, and Child Welfare Services. All counties operate and pay the full cost of General Assistance. The primary source of counties' contribution to these services is from the property tax.

STATEMENT OF THE NATIONAL ASSOCIATION OF COUNTIES

(SUBMITTED BY RANDY FRANKE, PRESIDENT)

Counties are the front-line deliverers of basic social services. In many states, counties have administrative and financial responsibilities for federal and state social services programs. Preliminary estimates from State Associations of Counties that have responded to a recent National Association of Counties (NACo) survey show that counties contribute over \$4 billion to the federal welfare, child welfare, and child support programs, as well as nearly \$1 billion to state general assistance programs.

It is with this experience that counties approach the debate over welfare reform and social service programs. NACo has been a long-time supporter of a comprehensive approach that rewards work, strengthens families, and is supported by sufficient federal resources and local flexibility to train people for jobs that promote long-term self-sufficiency. NACo's Board of Directors adopted an interim resolution and guidelines on welfare reform at our legislative conference in March which include the following concepts:

- Our overriding concern is the *protection of children*. The federal government must maintain its responsibility to ensure a level of assistance and support services to children and families, and that programs are administered on an equitable basis. Programs such as Aid to Families with Dependent Children, Foster Care and Adoption Assistance, Medicaid, and Food Stamps represent the basic safety net for children. NACo therefore supports maintaining the federal entitlement for these programs.
- Beyond this level of protection the federal government must provide the flexibility to tailor programs to meet local needs. Many of the restrictions in the legislation passed by the House of Representatives go against the concept of state and local flexibility, and have the added consequence of hurting children. These include the family caps, the elimination of eligibility for teenage parents and their children, and reducing benefits to children who have not had paternity established even in cases when the parent is cooperating with the state. NACo supports a different approach to these issues, such as encouraging teenage parents to live with a responsible adult and providing funding for enhanced case management.
- Another matter of great concern to counties is the denial of benefits to legal immigrants. We believe that this prohibition is unfair to taxpaying legal residents and will result in considerable cost shifting to local and state governments. Los Angeles county, which has the highest concentration of immigrants in the country, has estimated that the denial of Aid to Families with Dependent Children and Supplemental Security Income would represent over \$500 million a year in additional general assistance costs, and this figure does not even include the added cost of denying Medicaid eligibility.
- While NACo generally supports the concept of time-limited assistance we also firmly believe that in order for it to work, there have to be jobs, education and training, and support services available. One of the most basic needs is affordable child care. Neither individuals nor counties and states should be penalized for their failure to move people off the welfare rolls when jobs and child care are not available.
- Arbitrary participation requirements such as those included in the House bill are excessive and counterproductive. Instead, NACo supports mutually negotiated outcome measures in which states are judged by their progress toward achieving these goals. We are also concerned about the bill's definition of re-

- quired work activities and believe that these should be determined at the state and local level based on the individual's skills and training needs.
- Poorly funded block grants and cuts in benefit eligibility will force county and city governments to bear the unshared cost of caring for families and dealing with the unintended consequences such as increased homelessness, medical expenses, hunger, and crime. If block grants are established, it is imperative that local governments be involved in planning the design and delivery of services that meet the particular needs of local communities. I, therefore, urge you to include language in your bill that provides for a local government role in this process. Block grants also must include adequate time for implementation and some formula for increases, particularly in cases of economic downturns.
 - NACo believes that there are a number of categorical programs that could be consolidated to allow for a single funding source. One such area could be a child welfare services block grant that includes the Family Preservation and Support Program, Child Abuse State Grants, and the Title IV-B Child Welfare Services.
 - NACo opposes the cap on Medicaid as it will cause a cost shift to the private sector and to local level governments, particularly counties, and also not-for-profit and profit hospitals.
 - I cannot emphasize enough, however, the need to keep the IV-E Foster Care and Adoption Assistance, administration and training as an individual entitlement. These program are designed to protect our most vulnerable children and provide them a safe an nurturing out-of-home placement. A capped block grant will result in higher caseloads and could put these children in even greater risk.

In closing, I urge you to consider the cumulative effect of all the changes included in the House bill and whether county and state governments can absorb all these changes at once. One such example is the change in the definition of child disability in Supplemental Security Income (SSI). Consider a child who is on SSI but is in out-of-home care due to abuse or neglect. If that child loses SSI eligibility, the cost will be shifted to the foster care system. If foster care is also put in a block grant, this will be an additional burden to counties and states.

I know that you share many of the concerns that I have raised in this letter and understand that the Senate may remove some of the more onerous restrictions from the House bill. I am available to discuss these issues with you in greater detail.

PREPARED STATEMENT OF WADE F. HORN, PH.D.

My name is Wade F. Horn, Ph.D. I am the Director of the National Fatherhood Initiative, an organization whose mission is to restore responsible fatherhood as a national priority. Formerly, I served as Commissioner for Children, Youth and Families within the U.S. Department of Health and Human Services, and was a presidential appointee to the National Commission on Children. I have also recently been appointed by Health and Human Services Secretary Donna Shalala to serve on the National Commission on Childhood Disability. I am very pleased to have been invited here today to discuss the need for child welfare reform.

The child welfare system is in crisis. Data reported through the Voluntary Cooperative Information System (VCIS) indicate that more than 445,000 children age 0-18 years were in foster care at the end of FY 1993, a 65% increase since 1983. The cost of foster care under Title IV-E of the Social Security Act now exceeds \$3 billion annually, nearly ten times the amount expended in FY 1981. We are spending more and more money on child welfare, and getting less and less in return. Despite ever increasing money spent on child welfare, statistics from the National Center for Child Abuse and Neglect indicate that in 1991 there were a total of 992,600 substantiated cases of child abuse or neglect, an all time high.

But the child welfare system is not only in crisis, it is also at a crossroads. We must decide whether the solution to today's child welfare crisis is to continue down the road we are on toward more federal oversight, more federal regulation, and more federal micromanagement of the child welfare system, or to change directions and allow greater state flexibility and experimentation. I am here to argue that one of the most important reasons why the current system is in crisis is because of too much federal micromanagement of the states and too little flexibility at the state and local level.

Today is not the first time that a crisis in the child welfare system has made reform necessary. In the 1970's, the system was overburdened with an estimated 500,000 children in foster care. At that time, few states had adequate systems in place for ensuring quick resolution of foster care episodes, through either reunification or placement for adoption. Some states and local agencies could not even readily determine the location of a child once that child was placed in foster care. The

result was hundreds of thousands of children in "foster care drift," bouncing from one foster care home to another with no agreed upon long term plan or strategy for resolving the concerns facing children in out-of-home care.

This dire situation changed dramatically with the implementation of the Child Welfare Amendments of 1980 (PL 96-272). This law required states to implement a number of reforms, including a requirement to conduct an inventory of all children in foster care, the implementation of a statewide tracking and information system, and the development of a case review system with an emphasis on permanency placement. The Adoption Assistance and Child Welfare Act of 1980 also created title IV-E, thereby linking child welfare services available through title IV-B with the AFDC foster care program.

States were required by PL 96-272 to self-certify that certain administrative reforms had taken place, and then submit to periodic reviews by the federal government to ensure that these reforms, as well as additional protections specified in the law, were in place for children in out-of-home care. The incentive for states to comply with the law was the inclusion of additional Title IV-B payments if these reforms were implemented and operating to the satisfaction of the Secretary of the U.S. Department of Health and Human Services. The provision in PL 96-272 for ongoing system oversight came to be known as Section 427 reviews.

The short-term results of the reforms embodied in PL 96-272 were impressive. The length of time children spent in foster care was sharply reduced and the total number of children in out-of-home care plummeted from over 500,000 in 1977 to approximately 270,000 in 1983. Since that time, however, the number of children in foster care has been increasing, and spending on child welfare has exploded. What happened?

During the 1980's, two crises greatly challenged the capacity of the child welfare system to protect children. First, beginning in the mid-1980's, the crack cocaine epidemic dramatically changed the type of client being served by the child welfare system. Whereas the typical foster care placement in the 1970's and early 1980's involved neglect or highly episodic, and stress related, abuse, the new crack cocaine cases frequently involved much more severe and chronic abuse resulting in longer and repeat stays in foster care. Second, the 1980's saw an acceleration of the trend toward fatherless households. Given evidence that abuse is up to *forty times more likely* to occur when the biological father is not living in the home¹, the trend toward increasing father absence greatly increased the number of children interacting with the child welfare system.

The federal government should have been in the forefront encouraging states to respond innovatively to these new challenges. Instead, the rigidity of PL 96-272 necessitated that states spend valuable resources and time trying to negotiate cumbersome rules and regulations in order to maximize federal reimbursement under the Title IV-E administrative costs program, and to submit to burdensome paper reviews required under Section 427. In addition, federal attempts to reform the system have mostly gone in the wrong direction. Instead of increasing flexibility and encouraging experimentation, recent reforms have actually increased the rigidity and categorical nature of federal funding streams.

A case in point is the relatively recent passage of legislation to provide funds for family preservation services. Although some advocates of family preservation services claim that out-of-home placement is prevented for as many as 90% of children served, the few experimental evaluations of family preservation services to date have not shown substantially lower rates of placement in foster care 4-6 months after the termination of family preservation services. In addition, according to Toshio Tatara of the American Public Welfare Association, the dramatic increase in children in foster care placements is not due to an increase in the rate at which children are entering foster care, but rather to a significant decline in the rate at which children are *exiting* foster care². Despite the absence of empirical evidence attesting to its effectiveness, advocates for family preservation services were successful in persuading Congress to legislate a new funding stream which can be utilized only for family preservation and support services. Consequently, whether or not such services are effective or best meet the needs of a particular community, states are now required to use a substantial portion of federal funds to provide family preservation services.

This example of a separate funding stream for family preservation and support services is only the tip of the iceberg. There are at least two dozen different federal

¹ Martin Daly and Margo I. Wilson, "Child Abuse and Other Risks of Not Living With Both Parents," *Ethology and Sociobiology*, 6 (1987): 197-209.

² Tatara, T. U.S. Child Care Flow Data For FY 92 and Current Trends in the State Child Substitute Care Populations, VCIS Research Notes, no. 9 (August, 1993)

funding streams within the U.S. Department of Health and Human Services, three others within the U.S. Department of Justice, and one within the U.S. Department of Housing and Urban Development, all funding different parts of the child welfare system. Why should a state have to negotiate these 28 different funding streams in order to set up a single, comprehensive, and seamless system of child welfare services? Clearly, federal support for child welfare services has become far too categorical and inflexible, with the result that states must divert precious resources away from serving the needs of children in order to negotiate this labyrinth of federal programs and funding mechanisms.

Another problem with the current system is that the legislatively imposed oversight requirements of Section 427 are not working for at least two reasons:

First, the protections mandated in PL 96-272 are highly subjective and difficult to operationalize. For example, one of the case plan requirements is that a child be placed "in close proximity to the parents' home." What does close proximity mean? Does it mean the same thing in New York City as in Utah? What if it was not appropriate, in a particular case, to place a child in close proximity to his or her parents. What should one do then? Lacking clear definitions and unambiguous requirements, states are often forced to "guess" at the documentation required to pass a Section 427 review.

Second, many of the protections under Section 427 are highly dependent upon an intimate understanding of the individual case. How would a bureaucrat from Washington, D.C., truly be able to have an opinion as to the "appropriateness of services being provided" to a particular family in rural Kansas or urban Hartford? A much more rational and defensible system of oversight would be locally-based, for a local reviewer is in a far better position to understand local conditions and circumstances than a one or two week visitor from Washington, D.C., or from a regional office often hundreds of miles away. Lacking this intimate knowledge of local conditions and circumstances, the Section 427 reviews have become paper exercises, unable to address the complexities and nuances of the individual case.

What is needed to improve the child welfare system is greater state flexibility, not more specialized funding streams. The current system is simply too categorical, burdensome, and prescriptive on State agencies, resulting in much time and resources being diverted to satisfying federal paper requirements and away from serving the needs of children.

Specifically, I recommend that the various child welfare discretionary and state formula grant programs currently administered by HHS, the Department of Justice, and HUD, be combined with the Independent Living program and the Title IV-E Administrative Costs and Training Programs, to form one state formula block grant program. States and localities could then use these funds to build a truly seamless system of comprehensive supports for families without having to satisfy the idiosyncratic and sometimes conflicting requirements of dozens of federal programs. The role of the Federal government would be to foster experimentation in the delivery of innovative services, collect national data, and provide technical assistance in evaluating the impact of innovative services.

However, I also recommend that the Title IV-E Foster Care Maintenance Payments and Adoption Assistance Programs remain open-ended entitlements. Keeping the Title IV-E Foster Care Maintenance Payments Program as an open-ended entitlement will ensure that states are not unfairly penalized financially should changing conditions warrant greater use of out-of-home care; and should the greater flexibility afforded the states through the block grant result in more effective preventative services, federal expenditures on foster care might actually decrease, saving the taxpayer money. Allowing the Title IV-E Adoption Assistance Program to continue as an open-ended entitlement would help to ensure that no child is denied the opportunity of a permanent, loving home because of financial hardship.

Finally, I recommend that oversight of the child welfare system—excluding fiscal accounting and oversight of Title IV-E maintenance payments—be devolved to the States. This would mean a transfer of responsibility from the federal government to the States, with appropriate assurances that such oversight is independent of the child welfare agency administering the program, for ensuring a well-functioning, comprehensive child welfare system.

One possibility for ensuring effective state and local oversight of the child welfare system is to make greater use of citizen foster care review boards. According to the National Association of Foster Care Reviewers, citizen review boards are generally created by state statute, staffed by volunteers, and required to make case plan recommendations and maintain ongoing oversight of case planning for children and families in the public child protection system. Because the reviewer is a volunteer with no vested interest in the child welfare system, he or she can instead concentrate on the welfare of children. A recent study in Douglas County, Kansas, dem-

onstrated that the use of citizen foster care reviewers resulted in significant reductions in judicial and administrative delays, speedier implementation of permanency plans, and, most dramatically, a significant reduction in time spent in out-of-home placement³.

I am not suggesting that the federal government has no role to play in child welfare. Indeed, it was largely due to federal efforts that major positive reforms were instituted in the early 1980's. However, emboldened by initial success, the federal government apparently came to believe that it was the site of *all* wisdom, and over the past decade has imposed ever increasing and unnecessary burdens on state agencies. It is time for the federal government to get out of the business of micromanaging state child welfare budgets and services. The most effective way of accomplishing this is through the use of a state block grant approach.

In closing, I would like to add this cautionary note. It is important that we avoid the trap that many in the past have fallen into and conclude that legislative action is the most important thing we can do to improve the well-being of children. While greater state flexibility will enable local communities to develop better and more efficient child welfare services, at the same time we must address the cultural issues which have created the need for such services in the first place.

Chief among these cultural issues is the increasing trend toward fatherlessness. In 1960, about 5% of all births were out-of-wedlock. That number increased to 10.7% in 1970, 18.4% in 1980, and over 30% today. Over the same time period, the divorce rate has nearly tripled, so that today over a million children each year find themselves living in a one-parent home as a result of separation or divorce. By some estimates, the percentage of children born in the 1990's who will live a significant portion of their lives in a father absent home is upwards of 60 percent⁴.

While the link between father absence and welfare dependency is obvious to many (indeed, 94% of the AFDC caseload is single parent families⁵), less widely acknowledged—yet equally compelling—is the link between fatherlessness and child abuse. A recent study of over 52,000 abuse children revealed that whereas 28 percent of abused children lived with both biological parents (vs. 68 percent in the nation as a whole), 44 percent lived with only their biological mother (vs. 25 percent nationally), nearly 5 percent lived only with their biological father (vs. 3 percent nationally), and almost 18 percent lived in stepfamilies (vs. 9 percent nationally)⁶. Simply put, children living apart from both biological parents are at substantially higher risk for becoming victims of child abuse and neglect than children living with both their mother and their father⁷.

If we are ever to reverse the rising number of children in need of child welfare services, we must stem the tide toward fatherlessness. A block grant approach can be an effective mechanism for helping states and local communities set up a single, comprehensive, and seamless system of child welfare services. But even the most efficient block grant program will result in little improvement in the well-being of children if we do not simultaneously work to change the culture of fatherlessness; for as former HHS Secretary Louis W. Sullivan has said, the best Department of Health and Human Services is a well-functioning family, and a well-functioning family includes a father. It is imperative, therefore, that as we work toward the implementation of a child welfare block grant, let us also resolve to work toward the day when once again, almost every child in America will live with both a committed and responsible mother *and* a committed and responsible father.

Thank you.

³ Study by Mary Ann Jennings, MSW, and Thomas P. McDonald, Ph.D., of the University of Kansas School of Social Welfare, as cited in *The Review*, volume 8, no. 2 (Summer, 1994)

⁴ Frank F. Furstenberg, Jr., and Andrew J. Cherlin, *Divided Families: What Happens to Children When Parents Part* (Cambridge, MA: Harvard University Press, 1991)

⁵ House of Representatives, Committee on Ways and Means. 1993 Green Book (Washington, DC: U.S. Government Printing Office, 1993)

⁶ Catherine M. Malkin and Michael E. Lamb, "Child Maltreatment: A Test of Sociobiological Theory," *Journal of Comparative Family Studies*, 25 (1994): 121-130

⁷ See also: U.S. Department of Health and Human Services, National Center for Health Statistics, National Health Interview Survey (Hyattsville, MD, 1988); U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Child Sexual Abuse Victims and Their Treatment*, by Beverly Gomes-Schwartz, Jonathan Horowitz and Albert P. Cardarelli (Washington, D.C.: Government Printing Office, 1988); Margo I. Wilson and Martin Daly, "Risk of Maltreatment of Children Living with Stepparents," in Richard J. Gelles and Jane B. Lancaster, *Child Abuse and Neglect: Biosocial Dimensions* (New York: Aldine de Gruyter, 1987): 215-232

PREPARED STATEMENT OF ERNESTINE MOORE

Good Morning.

My name is Ernestine Moore. I am an attorney and social worker presently serving as Managing Director of the Skillman Center for Children at Wayne State University in Detroit, Michigan. I have been professionally involved in the child welfare service system since 1970 in various capacities in the public and private sectors. It is from this experience that I address you today. The opinions expressed are my own and not those of Wayne State University.

I was asked to address two questions:

1. What are the most significant problems in the present child welfare system? and

2. What impact would a block grant have on the capacity of State and local governments to provide services to children and their families?

To respond to the first question requires that I clarify the scope of "child welfare" and its relationship to the "child welfare system." In its broadest sense, child welfare is the range of activities designed to benefit children, promote their well-being, and strengthen or assure provision for meeting their physical, social, emotional, educational and moral needs. (Kadushin, 1978).

The public child welfare system as defined in the Social Security Act of 1935 was "the network of public and voluntary agencies which provide services for the protection and care of homeless, dependents and neglected children and children in danger of becoming delinquent."

While there have been attempts to expand that definition to be primary prevention/family support oriented, historically and to this date, when we think of the child welfare system, we think of that network of public and private agencies which provide an array of services for, with and to children and families who have been determined at-risk for neglect, abuse and delinquency and/or who have been determined to have actually experienced neglect, abuse and delinquency. This array of services presently includes supportive and supplemental services, protective services, family preservation services, foster care, adoptions, independent living services, residential care and institutional care/training schools.

A broad "child welfare" public policy, crafted to provide to each of our children the greatest possible access to resources and services which will encourage optimal success in physical, emotional, social, cognitive and moral domains, must be strengthened and is necessary to an overall reduction in child abuse, neglect and delinquency. However, as I speak to the question, What are the most significant problems in the present child welfare system?, I will be addressing the rather limited, narrowly focused system of public and private services to children and families who have been determined to be at-risk for neglect, abuse or delinquency and/or who have been determined to have actually experienced abuse, neglect or delinquency.

The most significant problems in the child welfare system, in my opinion, are

- **lack of integration of organizational structures, policies, procedures and intervention frameworks of the different services within the system.**

Each program/service area appears to operate in a vacuum from other programs/service areas. It is not uncommon to have the different programs, within the same agency, publicly challenging the efficacy of the other's policies, principles, methodologies, et cetera in addressing the needs of the same children and their families.

Our goal should be to develop a well-integrated system with each intervention building on the preceding interventions and setting the stage for subsequent interventions.

- **lack of sufficient, adequately trained and supported staff.**

Child welfare staff are confronted with those children and families who have experienced violations in parental duties of care and child-rearing practices of such significance to incur governmental intrusion into the autonomy of their family. These are the children and families who have been failed by other systems of support, e.g. extended family, schools, churches, neighbors, voluntary agencies. These are the children and parents who require our most knowledgeable and most capable workers.

While we have statutes, policies and procedures to guide child welfare staff, it is the individual staff person who must interpret and apply those statutes, policies and procedures to the fact situation presented by the individual case. Child welfare practice is substantially different from the widget making business where we can set the specifications and have a machine uniformly process each widget.

Every child and every family, while similar in the types of issues presented, are, in fact, different. Differential assessment and differential intervention is essential to positive results. Our academic institutions as well as our public and private agencies must provide better knowledge-based training, skill-based training and one-on-one supervisory support to achieve improved performance capacity.

Additionally, the worker and the supervisor must have the time to intervene with the child and her family. Too much worker and supervisory time is now spent on processing paper and responding to inquiries from the myriad of overseers who contribute little to assisting the worker and supervisor in improving outcomes for children.

- **complexity in the types of situations presented and limited accessibility to resources needed to effectively intervene.**

Historically, the family histories of children coming into the child welfare system documented substance abuse and addiction, mental illness and mental retardation. These parental conditions remain as the most documented reasons for child welfare intervention.

Despite the "reasonable efforts" legislation of 1981, the collaboration and/or cooperation of the child welfare, mental health and substance abuse systems to ensure early and continuing access to mental health and substance abuse services for child welfare families remains a challenge in the majority of states.

- **increasing numbers of children in poverty.**

The majority of people in poverty do not neglect or abuse their children. However, the majority of children served in the child welfare system come from poor families. Although I have no proof, I do not think that child welfare systems systematically seek out child abuse and neglect in poor families. I submit that parents in poverty have additional stresses because of that poverty and, lacking supports, those who have diminished capacities to appropriately respond to those stresses are at greater risk for neglect or abuse of their children. Their children are at greater risk for delinquency and they are at greater exposure to the professionals and community reporters of child abuse and neglect.

Effective child welfare practice must include the capacity to access and supplement cash assistance, job training, day care and other supportive services to alleviate the primary and secondary impacts of poverty.

- **increasing severity in the types of offenses committed by juveniles.**

While juvenile crime is decreasing overall, there is an increase in crimes of murder, rape/criminal sexual conduct, assault and robbery by juveniles.

The severity of the criminal behavior requires review and reconsideration of the appropriateness of utilizing traditional child welfare system philosophy and services for these delinquent youth.

There are other problems in the present child welfare system. However, in my opinion, the ones listed above are the most significant. For the most part, most staff are doing the best they can with the resources they have and should be commended for their commitment to children and their families.

Turning now to the second question, I submit that the impact of block grants on the capacity of State and local governments to provide services to children and their families depends on the

- resources made available from the federal, state and local units of government;
- constraints imposed, at any level, on the use of those resources; and
- creativity of the State and local governments and the child welfare community, broadly construed, in designing and implementing an effective child welfare service delivery system supported by all other appropriate and necessary resources.

I support a block grant for child protection which provides

- administrative flexibility to States, local units of government and the child welfare community to implement strategies to alleviate the most significant problems in their child welfare systems;
- adequate resources to meet the needs of children at risk of abuse, neglect or delinquency or those who have actually experienced abuse, neglect or delinquency; and accountability for achieving outcomes that are designed to reduce harm to children and reduce juvenile delinquency.

While I acknowledge the concerns expressed by many national advocacy organizations, I do not agree that block granting will necessarily result in the "doomsday for children" forecasted by many. *For me, the issue is not who makes the rules—inclusive of distribution of resources and constraints on use of those resources; but what are the rules and how do they support or impede my ability to achieve my goal.*

The child welfare system cannot deviate from its mandate to provide protection for children from parental abuse and/or neglect and to provide services to youth at-

risk of delinquency or services to youth who have been adjudicated delinquent. To the extent that any provision of the block grant challenges or abrogates that mandate either on its face or in application, it must be defeated. To the extent that any provision of the block grant reduces existing resources—federal, state or local—to support that mandate, it must be defeated. To the extent that any provision of the block grant provides unbridled discretion to the States or local government, it must be defeated.

My assessment of the Child Protection Block Grant legislation as passed by the House and now before this Committee is that it

- does not, on its face, abrogate the mandate of the child welfare system.
 - The purpose statement at Title II provides cash payments to be used to
 - identify and assist families at risk of abusing or neglecting their children;
 - operate a system for receiving reports of abuse or neglect of children;
 - investigate families reported to abuse or neglect their children;
 - assist troubled families reported to abuse or neglect their children;
 - support children who must be removed from or who cannot live with their families;
 - make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families;
 - assist children and families that are at risk or in crisis through support, treatment, and family preservation services; and
 - provide for continuing evaluation and improvement of child protection laws, regulations, and services.

It is our duty as block grants are implemented to be vigilant to ensure that no State or local community abrogates the terms and conditions for the award of funds and hence the child welfare system mandate.

- does reduce the Federal allocations to many States and requires maintenance of efforts by the States for only two fiscal years.

The Senate must modify this provision. The States must be "held harmless" for a minimum of five years in order to re-design and implement an efficient and effective child welfare system. The children currently in the system and those requiring protection during the redesign phase must receive services options no less than what is available now.

We have argued for years that the Federal system, by design, supports out-of-home care while stating a philosophy of protecting children in their own homes where possible. To actualize the latter philosophy, which I support with emphasis on the "where possible," requires an infusion of funds to protect children in their own homes while concurrently providing for the continued support of those children who must be in out of home care because we missed the opportunity to preserve them in their families, or reunite them with their families or secure an adoptive placement.

Just as the Federal government must not reduce its funding to the States, the States should be held to maintenance of effort on its base year expenditures unless it can document that it is achieving the outcome objectives enumerated in its State plan and the achievement of these objectives results in reduced expenditures because of decreasing reliance upon expensive out-of-home care.

- does not provide unbridled discretion to the States or local governments.
 - The provisions addressing state plan requirements, penalties for misuse of funds, child protection standards, citizen review panels, data collection and reporting, state response to citizen review panels and explanation of transfer to other block grants provide for some controls on the discretion of the States and, in turn, the local governments. There are areas where strengthening HHS oversight and participation should be considered.

The prohibition on HHS's reviewing the adequacy of state procedures in the State Plan Requirements provision should be deleted. Procedures are critical to the protection of children and HHS ought to have the right to question the adequacy of same in achieving the desired outcome.

The provision permitting the transfer of funds to other block grants should be deleted or modified. The Child Protection Block Grant should have protected status for a minimum of five years to support system re-design unless the State documents achievement of those objectives in a shorter period of time and documents the transfer of funds to another block grant would achieve the broad child welfare purpose.

The Child Protection Standards provision should be more specific as to the maximum time-frame for the investigation of reports of abuse and neglect. "Promptly" is too vague.

In the "Sense of Congress Regarding Timely Adoption of Children" provision I am concerned about the statement "Such programs should include a nationwide, inter-

active computer network to disseminate information on children eligible for adoption to help match them with families around the country." I am reminded of the statement of an 8 year old child that I had as a foster care worker. We were arranging visits with a potential adoptive family residing approximately 50 miles from Detroit, the city where Regina had spent all her life. She said, as I recall: "Miss Moore, Why can't you find me a home in Detroit. It's all I have left of who I am." We cannot let this particular intent statement result in the unilateral movement of children across and between states, without consideration of their attachments to their present geography.

All of us who care about and work on behalf of children and who have a duty to provide for their protection must, in whatever our role and in all our decisions, ask the question **HOW WILL IT AFFECT THE CHILD?** As we examine the provisions of the Child Protection Block Grant now before this Committee, if we can respond that a specific provision, as written, will result in a reduction in or elimination of harm to the child then it should pass. If that result would not be achieved, then we must modify or delete that provision.

Thank you.

COMMUNICATIONS

STATEMENT OF THE ADOPTION COALITION

(SUBMITTED BY STEVEN E. HUMERICKHOUSE)

I represent the Adoption Coalition, a joining of seven national adoption organizations which serve both children needing adoption and adoptive families. The seven are: Adoption Exchange Association, Adoptive Families of America, Children Awaiting Parents, Institute for Black Parenting, National Adoption Center, North American Council on Adoptable Children, and Spaulding for Children.

We are experts in adoption, organizations in the country that have made adoption our specialty. And, in particular, we specialize in the adoption of waiting children.

These waiting children are some of the most vulnerable in our country. They are the ones with physical, mental, or emotional disabilities. They are older. They are members of minorities. They have brothers and sisters who need new families together.

These children already have many strikes against them. They have been abused—both physically and sexually, neglected, and abandoned. They have been removed from the custody of the people who did these things to them, and, frightened as they were, placed with strangers in strange places. Many of them have been moved from one strange place to another, over and over again.

All they want is a family. A family that will love and care for them. They miss their moms and dads, even though they did bad things to them. But they don't trust the adults in charge of them now to find them a new mother or father or to know whether they should go back home. Remember: adults did bad things to them before.

Let's meet a few waiting children.

- Brandon is two years old, born with cerebral palsy, profound mental retardation, and blind. He smiles a lot and is learning how to laugh.
- Mary, an eight year old, who was both abused and neglected by her caregivers, now has difficulty forming attachments to other parental figures. In spite of her difficulties and three foster homes, Mary does well and would like a large extended adoptive family.
- Eugene, age 5, suffers with mental retardation, vision disorders, and severe asthma and respiratory problems. He needs a family who can marvel at small steps and daily progress rather than long term success.
- Devon is 15, and was affected by his birth mother's alcohol abuse, neglect, and physical abuse. He has had numerous placements in foster homes and specialized treatment centers, and a failed adoptive placement. Yet, he is eager to please and can be generous and loving.
- Patricia, who, at eight years of age, is totally dependent on others, will never walk, speak or see, due to being shaken as an infant. Nonetheless, she is a happy child, responding to the voices and touch of those around her.

In each case above and in thousands of others like them, children have horrific difficulties to overcome: abuse, neglect, physical or mental disability, emotional trauma. For some it is all those things at once. Yet, despite such circumstances, there is hope. Hope within the children themselves, that only needs brought out. Hope that lies in those special families who take in such children and make them their own through adoption.

The people who adopt these children are not foolish, despite what some might think considering the enormity of their task. Most go into adoption with their eyes wide open. They know full well the issues a waiting children brings into their family. They also know that without assistance they could never properly care for the needs presented them. Consequently, in order to provide for and protect the children they adopt, they rely on the guarantee of federal adoption assistance (Title IVE of

the Social Security Act). It is these vulnerable children for whom the adoption assistance program was designed, put in place to help families take care of them. As you can imagine, children with these challenges take some special care.

Adoption assistance provides a monthly subsidy, Medicaid, and other support services vital to the well-being of such children and their survival within their families. Of course, these same services can be provided while the child is in foster care, but unlike an adoptive family, social workers on a payroll make important decisions for these children, receiving approval from their supervisors and instructing the foster families what to do and not do. Unlike in adoptive families, social workers make visits to the home, fill out reports, attend meetings, testify before courts, and fill out more reports. Day in, day out. In contrast, adoptive families do it all, making decisions alone and providing total care for their children, yes with assistance, but without bureaucratic oversight. Adoption is pretty efficient and much less expensive. And the oil that keeps it running efficiently is adoption assistance.

Consequently, the Adoption Coalition is profoundly disturbed at attempts to block grant federal adoption assistance, what we consider a successful program. We see adoption, in general, and adoption assistance, in particular, as a critical answer to the question: "How do we find permanent families for abused and neglected children?" With block grants, children are left to the mercy of their states, entities without good track records either before federal adoption assistance began in 1980 and even still under federal guidance of the program. Bear in mind, there is no question among adoption leaders, that adoption assistance could be reformed to be more efficient for government, more helpful to families. However, we categorically do not think block grants will accomplish that reform.

Under the block grant passed by the House, Title IV-E is repealed to be replaced by state programs funded by federal dollars and, if a state so chooses, state dollars. States are free to design an adoption assistance program entirely to their liking, whether that means modification of the federal program for their own use, expansion of their parallel state program, or scrapping everything and creating something totally new. Freedom to be creative is certainly not a bad idea. Some state programs could end up better than what they are now. But for those states which do not place a high priority on adoption, it is hard to foresee better initiatives being created by them. Rather, a decline in service can be expected.

The Coalition's chief concerns lie in access to adoption assistance and adequacy of services provided. At present, assistance is an entitlement. Children meeting the requirements are guaranteed financial and medical benefits needed to form the family and sustain it throughout the child's minority. Under block grants, there is no such guarantee. Not only might the eligibility requirements be more restrictive than the present federal guidelines, but services provided could be so inadequate as to not be sufficient to support child and family. Many families will simply not take the risk. Others will try, but end in failure, returning the child to state custody, more damaged for the attempt because of rejection and with greater costs to the system as a consequence. Already Coalition members have received calls from families stating that just the threat of block grants was enough to deter them from adopting a waiting child. The risk was simply too great.

If, indeed, families do not come forward, children will wait longer for placement into adoptive homes. Waiting lists will form as the system backs up. If dollars set aside by a state for adoption assistance are inadequate to cover the costs of previously established adoptive families plus new children needing adoption, waiting lists will lengthen further. More substantially, if appropriations for block grants from the federal government are cut or priorities within a state decrease the ratio of adoption assistance dollars versus other programs in the block grant, waiting lists will lengthen again.

In fact, the system may feed upon itself. Block grant dollars are finite. Unlike entitlements, they do not grow with need. Any waiting list for adoption assistance will cost states more in foster care dollars. To cover increased foster care expenses, adoption assistance may be targeted for cuts, increasing the waiting list, keeping more children in foster, increasing foster care costs, and so on. A downward spiral forms.

It can be argued that spiraling cost is the circumstance presently in effect with ever growing entitlement expenditures. The difference is, an entitlement to adoption assistance solves a problem—it allows formation of a family, which is cheaper than foster care, and saves the future of a child. The block grant spiral simply costs more money.

One further concern shared by many in the adoption community: adoption of children, especially those in foster care, is not just an internal state issue. Children frequently move across state lines in order to find adoptive homes. While every effort is made to place them as close as possible to their original community, it is more important to find a family. The more difficult a child is to place—whether because

of age, disability, or other circumstances—the more likely that child will be placed across state lines.

Presently, adoption assistance programs in all states look similar, since they follow federal guidelines. Reciprocity between states is required by federal statute. And since basic eligibility and benefits are the same, social workers know children will receive services they need, even living in another state. Under block grants, diverse state adoption assistance programs will act as firewalls, trapping children within their home states, not allowing them access to potential families in other parts of the country. Families already formed could also be trapped by these same firewalls. If they move to another state, loss of benefits could result, either through differences in eligibility or services provided.

As for recommendations, the Adoption Coalition is clear: retention of the entitlement to adoption assistance and uniformity of eligibility and benefits are musts. Anything less will cost more money and result in damaged lives. Beyond entitlement and uniformity, proposed changes to adoption assistance to broaden eligibility and benefits to families while increasing state flexibility are circulating in the Senate. (One such proposal comes from the North American Council on Adoptable Children, a member of the Adoption Coalition). We urge you to consider them.

As experts in adoption, we are ready to assist you in your deliberations to do what is best for the most vulnerable among us, waiting children. As you ponder these issues, please keep in mind just exactly who it is whose lives you are affecting: Brandon, Mary, Eugene, Devon, Patricia. . . .

STATEMENT OF THE AMERICAN CIVIL LIBERTIES UNION

The American Civil Liberties Union is grateful for the opportunity to present this statement today on the important issue of reform of federal child protection policies.

Ever since the Adoption Assistance and Child Welfare Act (Public Law 96-272) became law in 1980, the ACLU has been bringing lawsuits against state and county child welfare systems for violating the minimal standards that are contained in that federal legislation. We represent tens of thousands of abused and neglected children in city and state child welfare systems around the country.

In 1980, Congress passed good legislation intended to protect children and to ensure that the billions of dollars spent in state child welfare systems were used for the opportunity to help and to protect these children, to intervene in their lives so they could have a decent childhood and the opportunity to grow up into healthy and productive adults.

Even with the standards contained in Public Law 96-272, the states have not done a very good job. If Congress eliminates those standards, by providing child welfare funds to the states in a block grant, and if it eliminates federal oversight of federally-funded programs for abused, neglected and dependent children these children are certain to be damaged even further. The consequences are truly unthinkable.

The issues being considered by this committee are critically important to the most desperate and vulnerable children in this country:

The almost 450,000 children in federally-funded foster care, a number which has increased 62% in the last ten years;

The almost 3 million children reported for abuse or neglect in 1992, a 130% increase in the last ten years.

These numbers reflect the heart-wrenching stories of countless children whose care at the hands of their government caretakers has often not met even minimal standards.

In Milwaukee, 10-year-old Alan talks matter-of-factly of his current foster family being recruited by his aunt distributing flyers in the neighborhood that say, "I'm a little boy. I like soccer. What I really need is a mom and a dad." Alan entered foster care when he was five. His mother abandoned him, and has a history of drug abuse and imprisonment. He has been in five different foster placements, and two unsuccessful returns to his mother, during at least one of which he was abused by his mother's boyfriend. He has been in at least eight different schools. His aunt, who could not care for him herself, advertised for a home for Alan after the child had remained in a temporary shelter for 11 months, and her phone calls to the child welfare agency had not been returned.

Ironically, state officials in Wisconsin, where Alan lives, are in the forefront of the effort to eliminate federal guidelines and block grant social services programs. But Wisconsin is not doing even a minimally adequate job in protecting the neglected and abused children in its largest city, Milwaukee.

If Wisconsin is a model for how states can effectively operate a child welfare system, we should analyze how effectively it has operated its program on behalf of children. A recent study of reported cases of child abuse and neglect in Milwaukee found:

- In 48% of the investigations, no government worker ever made face to face contact with the parent or child.
- Of a group of 118 children alleged to have been physically abused, only 5 received a medical exam.
- In 49% of cases in which abuse or neglect occurred, the case was closed with no services provided.

Children who enter the Milwaukee foster care system fare even worse:

- More than a third of the children with a goal of "return home" have languished in foster care for more than three years.
- 42% had no face to face contact with their social worker in the last year.
- Half the children whose foster parents are considered potential adoptive parents have been waiting four years or longer for adoption to be finalized. One child has been waiting nine years without the state taking any action.

In Wisconsin, millions of dollars in federal reimbursement money designated for foster care have been used for other state programs—but not for children. Federal taxpayers have the right to demand that their money is spent wisely. Block granting would mean money for these children would be spent without any meaningful oversight at all.

While we must allow the states to have flexibility in designing and administering their child welfare programs, and in deciding how to meet the standards contained in federal law, we simply cannot assume the states will provide adequate protection to children in the absence of enforceable federal standards and some form of federal monitoring and oversight. This is not an issue of trust; it is an issue of verifying whether the states are, indeed, using federal money to meet certain basic and generally accepted standards. We must remember that these children are more voiceless and powerless than any group in our country, and that if Congress takes away the minimal protections provided by federal law, they will have none.

This committee is addressing the question of whether funding federal child welfare services and foster care programs through block grants will improve services to children. Since state foster care systems in general remain so deficient, despite the enactment of Public Law 96-272 14 years ago, it may be tempting to simply try something different and place child welfare funds in block grants. Instead, however, we urge you to make good on the promises of that law, and to take steps to ensure, for the first time, that it is actually enforced.

We also urge you to retain assured funding for foster care and adoption assistance outside of any block grant. Provisions in H.R. 4, which was approved by the House of Representatives in March, would place these and many other federal child Welfare programs into block grants and cut funding for child protection services by at least 2.7 billion dollars. This will result in a marked decrease in federal funds for most states. Those states will be forced to spend a high percentage of block grant funds on foster care maintenance payments for the ever increasing number of children who are entering our child welfare systems. The states will have far fewer dollars to spend on preventing children from entering foster care and on moving children out of foster care into permanent placements. The net result will be that thousands of our nation's children will remain in "foster care drift" for years.

Under the current federal statute, states are provided foster care funds to pay for activities such as social worker training, recruitment of foster parents, and for the monitoring of foster and group homes. All of these essential activities enable states to ensure that children in government custody are in safe placements, and facilitate the ability of state agencies to provide permanent placements for those children. We are fearful that if these critical components are curtailed because of fiscal constraints, the due process rights of children in government custody will more likely be violated, because they will linger in foster care and will be more likely to be placed in unmonitored, and thus potentially unsafe, placements.

H.R. 4 also eliminated appropriate safeguards and accountability in child welfare systems. The current provisions in the federal Adoption Assistance Act set basic standards for child welfare services without proscribing how a state should meet those standards. These standards are neither overly prescriptive, nor are they utopian. They permit advocates to seek protection for children when a state does not even develop its own reasonable approach. Without such standards, and the right to enforce those standards, children are entirely without protection. We urge the Senate not to adopt the House approach, which will leave children without federal oversight and protections that they so desperately need.

We now turn to a more detailed discussion of federal protections and standards in the child welfare area.

I. CONGRESS MUST CONTINUE TO IMPOSE MINIMAL STANDARDS NOW CONTAINED IN FEDERAL LEGISLATION FOR CHILD PROTECTION AND CHILD WELFARE SERVICES AS A CONDITION OF FEDERAL FUNDING TO THE STATES.

States are entitled to make their own choices about precisely how to care for their abused and neglected children, but the federal government must be a partner in this process if children are to be protected. Congress is both entitled and obligated to impose these minimal standards because it pays a large share of the costs. It is both necessary and appropriate for Congress to set basic standards on how this money should be spent, and on what general public policy goals it wishes to further.

A consensus exists within the child welfare community, including standard-setting organizations, public administrators, and advocates, about minimal child welfare services and practices that should exist within every child welfare program:

- Child welfare agencies must protect children they know to be at risk of harm from abuse or neglect.
- Child-welfare agencies must try to keep families together so long as the child can remain safely in the home.
- Child-welfare agencies must try to minimize the time children remain in foster care.
- Child-welfare agencies must care for children while they remain in foster care.
- Children are damaged by protracted stays in foster care.

In fact, these practices are currently mandated by the Adoption Assistance and Child Welfare Act of 1980, which Congress passed in response to concerns about children drifting for years in state foster care systems. Though the statute imposes only minimal substantive obligations on states that choose to receive substantial federal funds to support their foster-care systems, it does require that states provide planning and services to children in an effort to shorten their stay in foster care and to protect children while they remain in foster care.

The current provisions in the Adoption Assistance Act, Title IV-E of the Social Security Act, set basic standards for child welfare services without proscribing how a state should meet those standards. The law requires that:

each child have a written case plan that describes the reasons for the child's removal from his/her home and the appropriateness of the child's placement;

each child have a case plan for assuring proper care and the provision of services;

services be directed toward facilitating either the return of the child to his/her parents, or the child's adoption, so that if at all possible, the child be raised in a family and not in government custody;

the child's case plan assures that the child receives proper care for as long as the child remains in foster care;

the states develop programs to try to keep children out of foster care whenever possible;

homes or institutions in which children are placed be reasonably in accord with standards recommended by national organizations;

the status of children in foster care be reviewed periodically in state proceedings to determine their future status.

Nothing in this law tells the states how to meet the broad standards in the statute, or what kinds of services or programs should be provided to do so. Eliminating these standards by block granting federal funds, particularly in the manner set forth in H.R. 4, will deprive children of all protections.

The problem with the statute is not that it imposes burdens on the states or interferes with the provision of effective services, but that it is simply not being followed. But these protections must remain in place, for a number of reasons.

These protections set guidelines for the states which have some influence on state policy. The protections in federal law provide the standards on which federal oversight efforts must be based. And the protections in federal law provide a basis for advocates to hold the states accountable in the most egregious situations.

At the end of the 1970s, Title IV-A of the Social Security Act, which contained virtually no standards or protections for children, governed the provision of federal funds to state child welfare systems. There were at least 500,000 children in custody at that time, and general agreement that foster care was no more than a custodial system. The legislative history supporting the enactment of Public Law 96-272 clearly expressed Congressional concern about the lack of federal monitoring of the use of federal child welfare funds. In passing the act in 1980, Congress noted that

the federal funds provided under Title IV-A had not been used by the states to "move children out of foster care and into more permanent arrangements by reunifying them with their own families when this is feasible, or by placing them in adoptive homes," and that "there were significant weaknesses in program management which had adverse effects on the types of care and services provided to foster children."

Prior to the passage of this federal statute, children in foster care often had no chance at all to ever leave government custody. Adoption was something usually reserved for infants. If it did not take place within the first several months of a child's life, the child was considered unadoptable.

After Public Law 96-272 was enacted, there were some limited improvements in state systems. For example, much more serious attention was paid to developing services to families to prevent abuse and neglect, and to avoiding the need for foster care; to getting children adopted; and to moving children from large, expensive custodial institutions into more family-like settings. State agencies, many of which had previously had conducted almost no planning for children once they entered state custody, became aware of the need to develop written case plans for children and, through those plans, became increasingly aware of the need to set goals and determine the steps to accomplish those goals for children. Within the first several years of implementation, the national foster care population dropped to 270,000 children.

However, these advances were short-lived, for several reasons unrelated to the statute itself but at least partly related to its enforcement.

States soon learned that the federal enforcement mechanism provided in the statute, the 427 review as it was developed by the federal Department of Health and Human Services, was not, in fact, a rigorous, thoughtful monitoring mechanism. Very few states failed these reviews. One reason for this might have been that the only sanction provided by the 427 review to process was the denial of federal funding, a draconian sanction to impose on a child welfare system already unable to provide minimally adequate services to children. And then, in 1989, Congress suspended the availability of the federal funding cut-off, providing no sanctions at all for failing a federal 427 review.

It seems very reasonable to conclude that the failure of the federal government to either conduct meaningful reviews or to enforce the requirements of the federal law made it clear to the states that there would be no consequences—at least at the federal level—to their failure to comply with the law.

In addition, however, other factors were at work. State systems in need of widespread reform if they were to meet the minimal goals of the federal statute had barely had time to start developing their own approaches when circumstances changed. The number of reports of suspected abuse and neglect exploded, with a 130% increase from 1984 to present, an explosion related both to greater public awareness and better reporting procedures but also correlated closely with drug abuse, homelessness, and other serious social dislocations that have devastating consequences for children and their families. Second, children began entering foster care at a younger age, staying longer and manifesting increasingly serious problems—related in part to increased drug abuse by women—problems that make it that much more challenging to treat these children and find them permanent homes. Finally, there have been substantial reductions in state and local support for social-service systems, reductions that have robbed child-welfare agencies of critically needed staff and service resources.

Given these forces, and the lack of federal effort to ensure implementation and enforcement, it should be no surprise that foster care systems are failing. However, it would be wrong to conclude that the Adoption Assistance Act has contributed to that failure. Rather, these systems are failing despite the statute's protections and despite the considerable federal resources that the statute provides.

A consensus exists in the child advocacy community about the importance of legally enforceable protections for children in foster care. This consensus is based on a number of factors:

- Children in foster care have no say in the political process.
- Every state in the country cloaks its foster care system in secrecy, prohibiting the disclosure of any information about children's experiences in foster care. Though these statutes often were enacted to protect children, they often are used by state officials to conceal illegal and unconscionable practices.
- Children in foster care are in government custody.

In light of these considerations, it is absolutely essential that Congress assure that children in foster care have minimum protections that are legally enforceable. And given the consensus within the child-welfare community, it is clear that those legally enforceable protections should at least include the standards currently con-

tained in federal law, which could be eliminated if foster care funds were put into a block grant.

The solution is not to eliminate the minimal protections we have. The solution is to make these protections more effective.

II. THE STANDARDS SET BY FEDERAL LAW MUST BE LEGALLY ENFORCEABLE.

In the absence of specific, enforceable federal standards, such as currently exist in the federal Adoption Assistance Act, the half-million children in government custody have few rights against their state custodians, if these custodians fail to meet the minimal standards and provide basic protections to them.

The states are entitled to discretion to determine the best way to meet the federal standards and to provide proper care for children, what programs are most effective in trying to ensure permanence for children, and how best to provide services to these children. However, the states should not have the flexibility to take millions of dollars in federal funds and not even make efforts to meet these very broad goals, or to operate their child welfare system in such a way that makes the achievement of these goals impossible.

For example, to take some real-life illustrations, state child welfare systems in which the telephone lines set up to receive abuse reports often go unanswered are not making efforts to protect children. States which leave children in unlicensed and unsupervised foster homes are not experimenting with new program designs. States which determine that abandoned three-year-old children are unadoptable—without trying to recruit adoptive parents for them—are not trying to find permanent homes for children. States which fail to provide any treatment at all for sexually abused children are not providing services to meet children's needs. Nevertheless, and regrettably, these situations exist in too many of our cities and states—all of which operate federally-funded children welfare systems.

The standards currently contained in federal law do not permit advocates to challenge a state for violating federal law based on the view that one approach to children's services may be better than another. It does permit advocates to seek protection for children, however, when a state does not even develop its own reasonable approach. Without such standards, and the right to enforce these standards, children are entirely without protection.

Increasingly, and in some measure because the federal government has not itself ensured meaningful implementation of the law, the standards in federal law have been used as the basis for lawsuits on behalf of abused and neglected children. For example:

In the District of Columbia, caseloads were so high that one worker testified she couldn't develop plans for children—she just wanted to make sure that all the children on her caseload were still alive. Almost no children were adopted, because the District did such a poor job of recruiting adoptive parents and making children legally available for adoption.

In addition to being extraordinarily damaging to children, the Washington, D.C., foster care system wasted extraordinary amounts of money. Children were kept in the most expensive but unsuitable kinds of care, and left in foster care when they could have been discharged either to their parents or to adoptive parents. The computer system was so outdated that over a million dollars was being paid to foster parents who no longer cared for children but whose names had never been taken off the rolls.

After a successful lawsuit was brought, problems remain but a great deal has already changed: training was instituted for all workers; the number of workers tripled; foster homes are now being visited and supervised; hundreds of children are being adopted; special units have been created to help children stay out of foster care by providing short-term help to their parents; and the response to child abuse and neglect reports has become more timely.

Now, because of continuing difficulties, outside experts have been brought in by the federal court to help the District solve some of its problems that continue to put children at risk.

Although the problems in the District of Columbia are well known, the problems in its child welfare system are not, unfortunately, unique to this city.

Other systems have had similar problems, and lawsuits there have produced similar results.

In Connecticut, a lawsuit was filed after the state social services commissioner likened the system to a "hospital emergency room" and decried the "senseless, merciless destruction and devastation of our children." The state agency was failing to investigate 60% of the children reported as abused or neglected. The medical needs of children in state custody often did not receive rou-

tine medical care, foster parents were so underpaid that committed foster parents had to reach into their own pockets to buy adequate food and clothing for children, limiting the number of people willing to provide homes for children. Connecticut had many of the same problems afflicting the Washington, D.C. system.

A lawsuit filed in 1989 resulted in a consent decree approved 13 months later. Since then the state has been moving forward with implementation, sometimes unevenly, but with the clear goal of improving services for children in the state. Among the many achievements: a 50% reduction in caseload, so workers can provide better services to children; the creation of a training academy; the development of statewide policies; and an increase in payments to foster parents to meet minimal government standards for the care of a child.

In *New Mexico*, an adoption system was created where none existed, and where one-third of the foster care population was characterized by a state report as being "in limbo," after a lawsuit based on federal law was filed.

In *Kansas*, a lawsuit based in part on federal law and relying on the results of a state auditing agency that concluded that protective service investigations were not taking place as required by law, that children were not receiving case plans and were being placed in dangerous foster homes, and that few efforts were being made to have children adopted when they could not be returned to their parents, resulted in a consent decree that incorporates a statewide reform plan.

It would have been difficult to have produced these benefits for children without being able to rely on the specific standards contained in federal law, which Congress is considering eliminating through the creation of block grants.

It is an extraordinary fact that for many children in federally-funded state foster care, their time in government custody will be more damaging than the abuse or neglect they suffered originally. It is extraordinary that this is taking place at the expense of the federal taxpayers. For the most part, states have not complied with the existing minimal protections afforded to children in existing federal law. Nor is there any evidence at all to suggest that the existence of the law was in any way responsible for the deplorable state of child welfare services nationally. Eliminating rather than strengthening these protections, and the possibility of effective federal oversight, by block-granting federal child welfare services and foster care programs to the states will surely not provide any benefits to children. It will only leave them more vulnerable and unprotected than they already are.

STATEMENT OF PHILIP G. DAVIS

FEDERAL REPRESENTATIVE FOR THE CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION

All of us would agree that few issues equal or surpass that of providing for the safety and proper development of all our children. Child abuse and neglect is a serious problem in our country that demands our sensitivity and commitment to resolve. However, just as important in the solving of these problems is the support that parents should feel from government in order to properly raise their children. If our court systems are based on the presumption of the defendant's innocence then shouldn't our child abuse and neglect laws, regulations and child protective agencies approach family problems with the same presumption?

No one would argue that a government presence and intercession is not needed at times in dealing with abused children. The question is, how much and when? Where does the government find the balance of being involved at the right time and in the right way with children who suffer from child abuse or neglect? Is it possible for government to be lax in its responsibilities—causing the suffering or even the death of children? Yes. On the other hand, can government be so broad and sweeping in its attempts to protect children that individual rights and considerations are trampled? Yes. In addition, can government be too intrusive and actually harm children by needless harassment of the family unit? Yes.

It is these latter two points that are so important to the overwhelming majority of parents in the raising of their children. This is of particular interest to Christian Science parents who have felt that their care for children is presumed neglectful rather than responsible. It is government intrusion at the federal level that for the last several years has been prejudicially forcing a majority approach to children's health care on those who choose a minority approach.

THE IMPORTANCE OF FAMILY

Before I go any further, one point needs to be absolutely clear. This is not an issue of the rights of a religious dogma versus the rights of children to good health care. First, this is in fact an issue that involves the rights of parents to have sufficient latitude in choosing what they have found to be very effective and the best for their children. Parents should not have the government looking over their shoulders at every decision.

Second, children may be the same from state to state, but their cases vary widely. It is presumptuous at best to ignore the individual circumstances of each family situation. Many child advocates and social workers are realizing today how important it is to understand and appreciate the cultural traditions and diversity of families before making judgments on the level of care provided to children. In like manner isn't it just as important to understand the religious practices of the family? The federal government should never interfere with the ability of states and local judicial systems to take all these factors into consideration. To do so could cause irreparable damage to the family as well as trampling on individual and religious freedoms.

INITIAL SUPPORT OF MINORITY RIGHTS

The Child Abuse Prevention and Treatment Act (CAPTA) was enacted to support individual states in their fight against child abuse and neglect. Initially, CAPTA regulations supported minority approaches to health care of children as well as state flexibility and determination of specific cases. During the last decade, however, the Department of Health and Human Services has used CAPTA to interfere with parents who use spiritual treatment for children by arbitrarily and capriciously forcing states into abandoning their ability to determine these cases on their own.

At risk are over forty state law provisions for spiritual treatment with children. The legislatures in these states intended that children whose parents use spiritual treatment for them wouldn't be considered abused or neglected for that reason alone. At the same time they ensured that the state would maintain the ability to intervene if necessary. Many of these provisions were in place before CAPTA was enacted back in 1974. In fact, it is our understanding that all state laws passed before 1974 that defined abuse and neglect as not providing medical care for an ill child, also listed treatment by spiritual means as a legitimate means of health care.

The provisions represent an arrangement that has worked well for many years. In some cases, state flexibility and local determination has resulted in the state's child protective agency monitoring a case under spiritual treatment until the child was no longer considered at risk. Intervention, although always an option with the state, has been used rarely with Christian Science parents over CAPTA's lifetime.

THREAT TO WITHHOLD FUNDING

There is not one situation where these provisions have hampered the ability of the state to intervene in a child's case. HHS cannot produce evidence to the contrary. In fact, in their correspondence to states they avoid their lack of evidence. Instead they refer to the state's provision as "ambiguous." They then insist, again without evidence, that this wording "may" hamper the state's ability to intervene. This is the rationale HHS has used for threatening to withhold funds from over forty states, despite the fact that state authority has never been restricted from these provisions. In other words, HHS's policy of interference is based on hypotheticals. Funding was actually denied in at least three states.

Although individual states largely opposed HHS's actions, they understandably didn't want to lose their funding for preventing child abuse and neglect. They were put into the difficult position of either losing their funding or losing their own local determination of these cases and eliminating freedoms and choices for parents. Some states (both their state legislators and congressmen) worked long and hard at compromise. The result was confusing and complicated language in some states. Unfortunately, some other states fearful of losing precious funds reacted by repealing their provisions entirely.

At present, twelve states have had their laws or regulations changed due to pressure from HHS. Over twenty states have submitted Attorney General opinions to meet HHS's requirements. Several states are still considered out of compliance by HHS.

PERSPECTIVE IS NEEDED

Although HHS will point to a handful of children who have died under spiritual treatment, there is a desperate need for perspective. Certainly every child's death

is a tragedy whether it occurs under spiritual treatment or conventional medical treatment. But we find it difficult to understand how the government can compare this to the serious problems affecting children on a national scale. Tens of thousands of children die each year under conventional medical treatment, some because of medical misdiagnosis, mistaken prescriptions, malpractice or other preventable reasons. In these instances does society question the method because of the mishaps?

The child abuse and neglect problem is immense with thousands of children at risk every year. Children who are neglected *lack* treatment, while children under Christian Science care are *receiving* treatment. Although this treatment may not be the most commonly chosen today, it is a treatment. Thousands of parents have found this treatment effective to eliminate suffering and restore health. It is a treatment that over thirty national health insurance companies are covering and reimbursing. It is a treatment given by Christian Science practitioners who are permitted to certify leave in the Family and Medical Leave Act of 1993. It is a treatment that was covered in three of the major bills from Congress last year on National Health Care Reform. It is a treatment supported and fully endorsed by loving, caring parents, not abusive adults. In the interest of fairness, it is simply not right to categorize this care and treatment as identical with locking a child in a closet and denying food to him. HHS's policy does exactly this.

IMPLICATIONS OF RFRA

A little over a year ago, the President signed into law the Religious Freedom Restoration Act or RFRA as it is often called. Each member of this committee voted for it. Easily this law is the most significant law safeguarding religious freedom passed in this century—maybe since the passage of our First Amendment in the Constitution. Not everyone understands, though, the high standard this law establishes for religious faith and practice. You may recall that last year the President asked each cabinet department's office of General Counsel to assign one of their staff members to take up the responsibility of monitoring RFRA's impact and effect.

To date, HHS has made no effort to fully examine their policy towards state religious provisions in light of RFRA. The law, of course, insists that government action must be in furtherance of a compelling governmental interest in order to interfere with some one's religious practice. It must then choose the least restrictive means. Not only has HHS not examined the least restrictive means question, they have not proven that their actions advance or better the compelling interest of health care for children. Absolutely no evidence exists showing Christian Science care and treatment to be any less effective for the health of a child than conventional medical treatment. RFRA was passed to take the burden of proof off religion and put it back on the government. The government must bear the burden of proving it has sufficient cause to restrict the practice of any one's religion.

Clearly HHS's activity is bad federal policy forced upon states and parents. The history reveals much over the last twenty years.

GRADUAL EROSION OF CAPTA'S INTENT

During the seventies after CAPTA's enactment, federal policy actually encouraged states to have religious provisions for spiritual treatment with children. In 1983, without statutory change HHS changed its regulations. Although we were still provided for in the regulations, the policy was slowly reversed. What was originally intended as a regulatory provision to help parents who use spiritual treatment, HHS used against those very parents. As we understand it, the Department would allow just about any type of treatment for a child—chiropractic, osteopathic, naturopathic, acupuncture—any, but spiritual treatment.

A few states were challenged in the mid-eighties. However, we received assurances that provisions for spiritual treatment in other states were acceptable.

By 1990, HHS began what it referred to as a "national review" of every state religious provision for children. They targeted nearly every state with a religious provision and threatened these states with a loss of funds unless they changed or repealed their law or submitted an Attorney General opinion to satisfy their demands. They even referred to these provisions inaccurately as "religious exemptions." The phrase is prejudicial because it wrongly implies that the child is exempted from all care and treatment.

Attempts were made during the next reauthorization of CAPTA to make congressional intent clear to the Department. The House Floor Analysis during CAPTA's reauthorization in 1992 contained a strong statement that "the exact parameters of adequate parental care are to be delineated by State law and the State courts." Further on it reads, ". . . such determinations as to the adequacy, type and timing of medical treatment are within the sole judgment of each State system."

HHS's response was to completely ignore it. During CAPTA's entire twenty year enactment, Congress has consistently supported allowing states to determine this issue.

MORE IS NEEDED: REMAND DETERMINATION BACK TO THE STATES

In order to prevent the further erosion of these state provisions the Appropriations bill for HHS last year placed a moratorium on the Department. The language told the Department that it couldn't threaten any more states with a loss of funds until the reauthorization of CAPTA. This moratorium is in effect this year.

It is clear now that intent language is not enough. This is why language was included in HR 4, the Personal Responsibility Act, under Title II, Section 421 of the Child Protection Block Grant Program to correct this issue. That language reads as follows:

The secretary may not require a State to alter its child protection law regarding determination of the adequacy, type and timing of health care (whether medical, non-medical or spiritual.)

The language does nothing more than remand this sensitive issue to state determination where each case can be examined individually and carefully.

The Department is advocating a one-size-fits-all approach to child health care and yet shouldn't our approach be to do what is best for each child? Equal protection if it mandates only one standard solution is not always the best protection. Religious freedom itself should allow consideration of more than one standard solution. Joel Klein, the White House Counsel, said recently, "The President recognizes that religion is not just another value or activity. He believes that religion has a unique role in American life and that it deserves special protection that is consistent with the Constitution."

Unless the federal government wants to take over state child protective agencies and juvenile courts, issues like this need to be resolved locally. States with these provisions already have oversight, balance and contact with parents and children. Government should be supporting this role not interfering with it.

We feel it is time for Congress to let HHS know that interference with religious provisions in state laws is no longer allowed. It has been said by more than one state official that HHS is trying to fix something that isn't broken. All the time and effort expended on this non-issue means less time for states to spend on actual cases of child abuse and neglect. Child protective agencies have enough of a challenge today without making their job more difficult. Your help in this matter in one way of improving a Federal funding law while at the same time letting states fight child abuse and neglect more effectively.

Enclosures:

Provision in HR 4
 Appropriation moratorium
 Conference Report from the Appropriations Committee

H.R. 4

IN THE SENATE OF THE UNITED STATES

MARCH 29 (legislative day, MARCH 27), 1995

Received; read twice and referred to the Committee on Finance

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1 any material not described in subsection (a), and may not
2 review the adequacy of State procedures. [The Secretary
3 may not require a State to alter its child protection law
4 regarding determination of the adequacy, type and timing
5 of health care (whether medical, non-medical or spiritual).]

6 **"SEC. 423. GRANTS TO STATES FOR CHILD PROTECTION.**

7 **"(a) ENTITLEMENT.—**

8 **"(1) IN GENERAL.—**Each eligible State shall be
9 entitled to receive from the Secretary for each fiscal
10 year specified in subsection (b)(1) a grant in an
11 amount equal to the State share of the child protec-
12 tion amount for the fiscal year.

13 **"(2) ADDITIONAL GRANT.—**

14 **"(A) IN GENERAL.—**In addition to a grant
15 under paragraph (1) of this subsection, the Sec-
16 retary shall pay to each eligible State for each
17 fiscal year specified in subsection (b)(1) an
18 amount equal to the State share of the amount
19 (if any) appropriated pursuant to subparagraph
20 (B) of this paragraph for the fiscal year.

21 **"(B) LIMITATION ON AUTHORIZATION OF**
22 **APPROPRIATIONS.—**For grants under subpara-
23 graph (A), there are authorized to be appro-
24 priated to the Secretary an amount not to ex-

SEC. 204. None of the funds made available by this Act may be used to withhold payment to any State under the Child Abuse Prevention and Treatment Act by reason of a determination that the State is not in compliance with section 1340.2(d)(2)(ii) of title 45 of the Code of Federal Regulations. This provision expires upon the date of enactment of the reauthorization of the Child Abuse Prevention and Treatment Act or upon September 30, 1995, whichever occurs first.

Termination
date

SEC. 205. (a) Of the budgetary resources available to the Department of Health and Human Services (excluding the Food and Drug Administration and the Indian Health Service) during fiscal year 1995, \$37,125,000 are permanently canceled.

(b) The Secretary of Health and Human Services shall allocate the amount of budgetary resources canceled among the Department's accounts (excluding the Food and Drug Administration and the Indian Health Service) available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 206. None of the funds appropriated in this title for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of \$125,000 per year.

SEC. 207. (a) Of the budgetary resources available to the Department of Health and Human Services for space rental charges (excluding Food and Drug Administration and the Indian Health Service) during fiscal year 1995, \$4,505,000 are permanently canceled.

(b) The Secretary of Health and Human Services shall allocate the amount of budgetary resources canceled among the Department's accounts (excluding the Food and Drug Administration and the Indian Health Service) available for space rental charges. Amounts available for space rental charges in each such account shall be reduced by the amount allocated to such account.

SEC. 208. Taps and other assessments made by any office located in the Department of Health and Human Services shall be treated as a reprogramming of funds except that this provision shall not apply to assessments required by authorizing legislation, or related to working capital funds or other fee-for-service activities.

SEC. 209. Of the funds appropriated or otherwise made available for the Department of Health and Human Services, General Departmental Management, for fiscal year 1995, the Secretary of Health and Human Services shall transfer to the Office of the Inspector General such sums as may be necessary for any expenses with respect to the provision of security protection for the Secretary of Health and Human Services.

SEC. 210. Of the funds made available under this title, under the heading Low Income Home Energy Assistance, for fiscal year 1996, the Secretary shall receive assurances from States that funds will assist low-income households with their home energy needs,

Disadvantaged
persons.
Energy.

**CONFERENCE REPORT ON H.R.4606
JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF
CONFERENCE**

GENERAL PROVISIONS

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which establishes a moratorium on the withholding of funds under the Child Abuse Prevention and Treatment Act from any State by the Department of Health and Human Services because a State is not deemed to be in compliance with the religious exemption regulations. The House bill included similar language on this subject. The moratorium will allow the authorizing committees time to look at all sides of this issue and hear testimony from all affected parties when Congress considers legislation to reauthorize CAPTA next year. Under the moratorium, States deemed to be out of compliance with the religious exemption portion of the regulations will continue to receive CAPTA funds.

During the reauthorization of CAPTA in 1992, the House stressed that "the exact parameters of adequate parental care are to be delineated by State law and State courts" and that "determinations as to the adequacy, type and timing of medical treatment are within the sole judgment of each State system."

from *Congressional Record* September 20, 1994
p. H9309

**STATEMENT OF THE FAMILY RESOURCE COALITION
(SUBMITTED BY JUDY LANGFORD CARTER)**

My name is Judy Langford Carter. I am the Executive Director of the Family Resource Coalition, a national membership, consulting, and advocacy organization that is working to promote the grassroots family support movement.

In its haste to reform the welfare system, the House of Representatives has sent to the Senate a truly troubling proposal: the Child Protection Block Grant of the Personal Responsibility Act. Although promising increased flexibility to the states, this proposal would actually hobble their capacity to protect abused, neglected and battered children.

The Child Protection Block Grant would not only limit federal funds available for emergency interventions, such as adoption assistance and foster care; it would also jeopardize the relatively inexpensive, community-based preventive services that strengthen families and keep children and families from having to draw on emergency assistance at all.

This would not be the first time prevention has taken a back seat to emergency responses. Still, it would be a shame if we couldn't learn something from those who came before us.

In a story that has been retold in many forms, including the Parable of the Disasters, the elders of a riverside village struggled for generations to devise ways of keeping children who fell into the river from drowning or being swept downstream.

Boats were built, lifesaving squads were organized and sophisticated nets and ropes were purchased. Then villagers started to feel the pinch of so many resources going toward the operation and began to argue about which part of their elaborate emergency system could be cut back. The arguments got so heated that one modest suggestion from a few parents was never heard: Why not build a fence to prevent children from falling into the river in the first place?

Family support programs, quietly going about their business in most communities, are the fences that keep today's families from falling into the river of welfare, child abuse and family violence—but prevention strategies are getting short shrift in current block grant proposals.

Family resource programs began emerging in communities across the country during the 1970s, with the realization that prevention was both feasible and preferable to waiting for family disasters to happen. These public or private programs, which work to increase the capacities of families to nurture their children and of communities to nurture their families, try to help solve problems before they become unmanageable. This important work has been greatly helped in some cases by federal or state assistance, yet perverse disincentives make it easier for states to remove children from families than to help families stay together. In fact, no government has ever given prevention more than a tiny fraction of the resources that are funneled into emergency interventions every year.

The House of Representatives' Personal Responsibility Act (PRA), a consolidation of programs providing welfare, nutrition, child care and cash assistance for needy and disabled children, is touted as an improvement. Proponents argue that the states—given lump sums of money with few or no strings attached—ought to be able to figure out the proper balance between spending for emergency and prevention services. They claim that this new way of administering federal dollars will allow states to set their own priorities.

But in their haste to make big changes in less than 100 days, the House has sent the Senate a bill that would destroy the states' potential to build more fences, while jeopardizing the safety of the children already in the water and being swept downstream.

Nowhere is this more evident than the crucial, but little noticed, portion of the act: the Child Protection Block Grant. This provision which consolidates, among other things, initiatives to stimulate family preservation and support programs, severely limits federal assistance for abused and neglected children. States may choose which children to serve and how to serve them, but far from being able to stress preventive strategies, most would find their prevention initiatives doomed.

The elimination of open-ended federal funding for foster care and adoption assistance may mean that states won't have enough money to care for their already increasing caseloads of abused and neglected children. And, most experts agree, other PRA provisions, such as the denial of cash assistance to children of unmarried teens, children of mothers on welfare and children with disabilities will dramatically increase the demand for emergency services. If the states have only limited resources for foster care and adoption, they will be forced to use all of their block grant funds to "rescue" and find new homes for these most vulnerable children. And preventive programs, as we have witnessed time and again in times of financial crisis, will fall by the wayside.

The Senate could do better by families in several ways. First, it should put off final action on these crucial issues until the probable consequences are considered and fully understood, to avoid hastily creating new problems. Second, it should consider establishing a separate block grant for family support services, to encourage prevention. Third, it should pattern the Child Protection Block Grant after the 1993 Family Preservation and Support Services Program, which requires states to seek input from parents and communities and to set and meet specific goals. Fourth, it should retain open-ended funding for foster care and adoption assistance to ensure that no abused or neglected children are left unprotected, in times of increased demand.

The point of the riverside parable isn't that drownings are inevitable, but that all voices should be heard. There will always be a need for strategic emergency equipment and life-saving assistance but common sense tells us that humble fences are an essential part of the overall strategy, too. The greatest mistake Congress could make would be to make it impossible for a community to build them.

