Leaving Our Mark on a New Generation

Congressional Coalition on Adoption Institute’s 2010 Foster Youth Intern Report
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FOREWORD

“Destiny is not a matter of chance, but of choice. Not something to wish for, but attain.”
-- William Jennings Bryan

A few months ago, my daughter Grace and I were doing an experiment for school in which we demonstrated a science phenomenon known as “phototropism.” For those who have forgotten what you likely learned in first grade, phototropism is the growth of a plant towards a light source. Luckily for me, our plant did as predicted growing in a sideways direction towards the sun. Afterwards, Grace and I discussed why even if we did this experiment 100 times over we would get the same result because “that is just what plants are programmed to do.”

The other day, while working with this year’s class to complete the report that follows, I found myself strangely thinking about phototropism. I was struck by the thought that each of the members of the FYI 2010 class, and the nearly one hundred FYIs that came before them, are like the plant in our experiment. After getting to know them, I cannot help but conclude that there is something innate in each of them that continues to drive them to be successful despite adversity, just as there was something innate in that plant that made it move past our purposeful deprivation of sunlight.

It is humbling to see how they have never lost their sense of purpose, even though throughout their lives countless others have told them their goals were not obtainable. Over the summer, I was privileged to witness them time and time again reach out for more “light” – whether it was to engage in a policy debate, experience the historical passing of Senator Byrd, or present their ideas and perspectives to the White House Domestic Policy Council.

Over the last decade, policymakers have worked hard to pass laws that are meant to help them realize this potential, whether it is by finding them a permanent family to call their own or by helping to pay for college. On the pages that follow, the FYI Class of 2010 has entrusted us with their perspectives on whether three major areas of federal policy have made that type of difference in their lives and in cases where it did not, how it might make that type of difference in the future.

Like them, we must not let the darkness of ignorance or obstinacy stand in the way of our realizing a child welfare system that provides each and every child with the care, love and support they need to grow and prosper. We too must be willing to seek out the light.

To my friends: Serena, LaTasha, Markus, Sam, Nicole, Jeremy, Josh, Wendy and Victor. Keep on growing toward the light. Don’t be discouraged on days when it seems there is nothing but darkness. I have every confidence that even when life continues to change the direction of the sun, you will continue to grow taller, stronger and more beautiful.
THE ADOPTION AND SAFE FAMILIES ACT OF 1997
“AMERICAN MADE” FOSTER YOUTH
By Jeremy Long, Markus McQueen, Joshua Conner, and Victor Horton

Something you might not know about the Adoption and Safe Families Act (ASFA) is that tucked away in Section 406 is a provision that states: “to the greatest extent possible, all equipment and products purchased with funds made available under this Act should be American-made.” (PL 105-89). The rest of the bill is solely focused on the U.S. child welfare system, except this one provision. The one connection we are able to draw between this “American-made” provision and the broader purposes of the Act is that we, the authors of this report, are essentially “American-made” products of the United States’ child welfare system. The following pages of this report are a platform where we, as former foster youth, take a critical look at what is viewed as a monumental piece of child welfare policy and discuss the impact—or in some cases lack thereof—that it had on our individual experiences.

According to Adoption and Foster Care Analysis and Reporting System (AFCARS, 2009) data, there are 463,000 children currently in the foster care system and 123,000 children eligible for adoption. While the Adoption and Safe Families Act was heralded as “landmark” legislation after its passage by then First Lady Hillary Clinton, there is clearly still a need to look back at the law and assess its strengths and weaknesses.

Prior to the enactment of ASFA in 1997, the only comprehensive federal policy providing federal oversight for child welfare in existence was the Adoption Assistance and Child Welfare Act of 1980 (AACW). This earlier act was established with the objectives of promoting permanency for children, further encouraging social workers to gear efforts toward reunifying families, and eliminating the prevalence of languishment in foster care (GAO Testimony, 2003). After nearly two decades of further experience, Congress began to recognize ways in which the 1980 law was falling short of its promise to promote permanency for children. More specifically, Congress was concerned by the increasing number of prolonged attempts to reunite families when it was clear the child could not return home safely (GAO Report, 1999).

Considered ground-shifting as legislation, the Adoption and Safe Families Act was premised on a desire to promote and expedite adoptions and permanency for youth rather than to rely on foster care and other out-of-home temporary placements once reunification was no longer an option. Other general provisions were to promote safety for children impacted by the child welfare system as well as increase the accountability of states to the federal government (HHS Progress Report to Congress, 1998).

One might wonder why “landmark legislation” is needed to promote the adoption of children from the U.S. foster care system. Given what we know about both the need and desire, adoption should not be such a difficult task to tackle. The Dave Thomas Foundation for Adoption’s resource on Foster Care Adoption Facts states that “Nearly 40 percent of American adults, or 81.5 million people, have considered adopting a child, according to the National Adoption Attitudes Survey. If just one in 500 of these adults adopted, every
waiting child in foster care would have a permanent family.” Clearly, ASFA’s goal of finding permanent families for those children in foster care who need them is not inhibited by a lack of prospective adoptive parents.

And yet, nearly thirteen years after this monumental law was passed, only one out of every two children was adopted. In 2008 only 54,000 of the 123,000 children eligible for adoption actually were adopted out of foster care. 29,000 children aged out of foster care in 2008 having never had the promise of permanency fulfilled. Nearly 48,000 children spend over three years in care. (AFCARS, 2009). The table below shows how few of the 50 states are meeting permanency standards set out by federal Child and Family Services Reviews.

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As you will note from the chart above, the number of states meeting national standards for permanency is less than half in the measured components of permanency, with the exception of an increase in the number of states meeting national standards in adoption between 2007 and 2008.

The sections that follow provide summaries of some of the major provisions of ASFA, as well as the personal reflections of foster care alumni and recommendations on how these sections might be amended to further its goals of increasing permanency and safety in the lives of children impacted by the U.S. foster care system.

**Timelines for Permanency**

Section 103 of ASFA expedited the process by which biological parents parental rights are terminated by setting a minimum standard requiring that if a child has been in foster care for 15 out of the most recent 22 months then the state must file for termination of parental rights (TPR) and concurrently begin seeking an alternative permanent placement for the child through “identifying, recruiting, processing and approving a qualified adoptive family.”
ASFA only allowed for three exceptions to the mandatory TPR after 15 of 22 months in care: first, if the child is in the care of one of their biological parents’ relatives; second if a “compelling reason” exists why TPR is not in the child’s best interests; and third, if the state did not provide the services a family was to receive in their case plan within the time stated there.

Section 103 also required mandatory TPR when there are certain aggravated circumstances in a household – namely, when a court has determined that a parent either murdered, committed voluntary manslaughter of, or committed a felony assault that resulted in bodily injury of another one of their children.

The primary goal of AFSA is to promote and expedite adoptions and permanency for youth rather than to rely on foster care and other out-of-home temporary placements once reunification is not an option. In keeping with this goal, the timeline set out in ASFA of 15 out of 22 months before mandatory TPR was meant to prevent states from allowing situations where children languish in foster care while their parents continually failed to meet requirements of improved lifestyles in order to bring their children home. At first reading, this timeline seemed arbitrary and did not seem to allow for the individual consideration that each child’s case needs. But a closer reading showed that exceptions, such as the “compelling reason” exception, allow for the flexibility needed to address this concern.

We realize that federal policymakers, in drafting the 15 of 22 months provision, were trying to balance the tension between the difficulties parents face in turning things around in their households within a court-determined timeframe in order to have their child returned to them, and the reality that 15 months in the life of a child can seem like an eternity and if too much time is lost on parents who are not going to show efforts to turn things around in their lives, a child may have lost their window of opportunity to move to permanency with another family. In discussing this provision and the rationale behind it, some of us felt that 15 of the most recent 22 months in care was too long of a timeline, and others felt it could be too short at times. Again, the disparity in our collective opinion validates the need to consider the uniqueness of each child’s case.

The timeframe debate aside, this 15 out of 22 months provision has not produced its intended results for all children, despite its companion requirement that states concurrently plan for either reunification of the child with family and permanency through kinship, guardianship or adoption. While the language in ASFA has good intentions and in some cases does prompt states to pursue an adoption placement for a child, more often than not adoption and a permanent family do not result from the termination of parental rights.

For many youth in foster care, the requisite implementation for concurrent planning was to begin at TPR. That implementation phase came and went and nothing seemed to change. It seems that in most cases child welfare workers avoid truly fulfilling this requirement by merely “checking off a box” in children’s case plans that indicate they are
pursuing permanency in one form or another, but in reality children are still languishing in foster care. Consider that just among the four individuals writing this ASFA section of the report we were in care for a total of 498 months or 41.5 years! And every one of the four of us “aged out” of care with no permanent families. (Since then, however, one of us was been adopted at age 22 and another of us is pursuing adoption now at the age of 22).

To give you a greater sense of how cases slip through the cracks, consider Josh’s story. Josh entered the system at the age of 15 after his uncle, who had had been his custodian 1 year, could no longer care for him. From the day he entered care, Josh’s “permanency plan goal” was merely to age out of the system. No social worker ever spoke to Josh about choosing adoption as his permanency plan or even about enrollment into mentoring programs. In many cases, states’ permanency plan goals are premised on the likelihood that an adoption will occur. In short, states focus their energy to promote adoption when it is most likely to occur. As a late teen the state social workers’ bet was against Josh ever being adopted.

Social workers often dismiss foster children as not being “adoptable” and state that it is not in their best interest to pursue an adoption since it is unlikely for an older child to be adopted, or present the fact that the youth “did not consent” to adoption as a compelling reason for pursuing long term foster care instead. Another reason behind this outcome is that while a permanency plan’s option box for “adoption” is checked on a piece of paper, the caseworker never actively pursues an adoptive placement. Please see the discussion of “Another Planned Permanent Living Arrangement” for more information on how this often occurs under existing law and policy.

Percent of Children in Care for 24+ Months Who Achieve Permanency Before 18

The chart above shows the percent of children in U.S. foster care for two or more years who will have achieved permanency before reaching 18 years of age. This data shows that on average only around one quarter of all foster children in care longer than 24 months achieve permanency, and the remaining three quarters age out of foster care without permanency. Source: U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, 2008 Child and Family Services Reviews.
Adoption of older youth is not impossible and caseworkers should never write it off for a child in foster care, whatever their age or challenges. Data from programs such as Wendy’s Wonderful Kids – a nonprofit organization that hires adoption professionals who use child-centered recruitment efforts to focus on moving a child from foster care to adoption into a permanent family has 5,860 children in their programs in all 50 states and the District of Columbia. Of these children, 3,614 have been matched with pre-adoptive families and 1605 are adopted (Dave Thomas Foundation for Adoption). Another program with success in placing older youth is You Gotta Believe. This program also uses specialized staff and child-centered recruitment efforts of its “Permanency Action Recruitment Team” meetings. By the end of the project time period, the program had placed 98 out of 199 youth with an average age of 15.7 years in permanent homes (Avery, 2010). Based on experiences such as these state caseworkers should go into every child’s case with the belief that it is possible to find a permanent family no matter how old they are – state policies should reflect this as well.

RECOMMENDATIONS

To further strengthen the intent of safety behind the mandatory TPR provision of this section, federal policymakers should:

- **Add to the list of mandatory TPR when parents allow dangerous individuals in the household.** Children are in just as much danger if other adults living in their home have been involved in these crimes and activities that would require a parent’s rights to be automatically terminated. As such, we believe the entire list of aggravated circumstances that ASFA mandates TPR for should be extended to other adult residents in the homes. Either a parent chooses to remove the unsafe adult from the home, or the parent is at risk of the removal of their child whose safety is compromised and termination of their parental rights.

- **Incorporate the child’s opinion into a best interest determination about whether to terminate parental rights.** Children who are able to understand the termination process should be required to be informed of the consequences of TPR as well as express their opinion regarding whether their parents’ rights should be terminated. For example, California’s list of exceptions to mandatory TPR includes if the child does not wish the parents rights to be terminated as well as if the basis for terminating rights are out of the parents’ control. (The Urban Institute, 2009).

- **The Federal government should mandate that states provide third parties prior to the termination of parental rights.** Youth need advocates that will help explain the process and its consequences as well as help them articulate their thoughts, preferences and opinions. These advocates could be their CASA worker, court representative or mentors.

- **Clarify that termination of parental rights cannot be filed solely on the basis that a parent is incarcerated.** Several states have addressed the issue of
incarcerated parents differently, but many of them have passed laws to clarify that termination of parental rights cannot be filed to the extent that the sole reason for instigating the process is the parent’s incarceration.

To further ensure that the 15 out of 22 month provision results in the intended reality of permanency for children, federal policymakers should:

- **Provide greater accountability to states for the ultimate permanency outcomes of foster youth.** ASFA section 107 requires that states document the steps they take to find permanency for children. Please see these recommendations below. Our permanency outcomes as explained above show that there is a large gap between the intent of this provision under ASFA and the actual impact on the lives of foster youth.

**Documenting Efforts to Achieve Adoption in a Timely Manner**

Two sections of the Adoption and Safe Families Act relate to documenting efforts toward achieving permanency in a timely manner for children in foster care. One relates to documenting a state’s move toward permanency for a child immediately at the time the decision is made to terminate the child’s biological parent’s rights – the other requires that states then document their efforts toward achieving this permanency.

In circumstances which require a state to file for termination of parental rights (TPR), Section 103 of ASFA requires that the state simultaneously begin the process of child-specific recruitment for a prospective family to adopt the child impacted by the filing of TPR – this simultaneous pursuit of TPR and permanency is known as “concurrent planning”. The idea behind this mandate was to shorten as much as possible the time between when a court actually grants TPR and when the child is able to be placed in a new permanent home. The concept is a reflection of the theme of shortening the timeframe of establishing permanency that is found throughout ASFA and was intended to prevent unnecessary waiting for children, specifically those who cannot return to their parents.

Once reunification with biological parents is ruled out of a foster youth’s permanency plan, another section of ASFA, Section 107, then specifies that states must document the steps their caseworkers has taken to find arrangements for the child, whether for adoption or an alternative placement. This provision sets out that at a minimum, the documentation must reflect child-specific efforts.

Historically, the child welfare system was focused on reunifying biological families and it is only more recently, through efforts such as the Adoption and Safe Families Act that the safety of the child and the demand for shorter timeframes for families to reunify came into existence. The resulting intent behind this federal concurrent planning mandate is a good one – if there is a likelihood that a parent is not going to make efforts to have their child returned to them then caseworkers need as much time as possible to pursue other permanency options for them.
With nearly 463,000 youth still currently in the foster care system, the states need to make sure that permanent placements are the top priority of the state child welfare systems. Of the children in the foster care system in 2008, 36 percent of children spent 2 or more years in care (AFCARS, 2009).

Based on Length of Time Child is in Foster Care

As you will note from the chart above, the percent of children who achieve permanency drastically decreases as the length of their time in care increases. The Adoption and Safe Families Act has attempted to shorten the lengths of time children spend in care before achieving permanency, but much work remains to be done.


Just a few years after ASFA was implemented, a 2004 federal analysis of states found that states are implementing concurrent planning in varying degrees. One problem this report noted was that there is not a connection between concurrent planning “policy and practice” – meaning that there is a difference between the law’s required use of concurrent planning and how it is actually being implemented to result in permanency in the lives of children. States with formal concurrent planning policies on the record sometimes had little evidence of it when cases were reviewed and in many cases a child’s case plan would state that concurrent planning was occurring, but records showed “efforts toward (concurrent) goals were sequential rather than concurrent.” In short, little supporting evidence of that concurrent planning existed in most cases. (Concurrent Planning: What the Evidence Shows, 2005).

These findings are consistent with our personal experiences and concerns, and while we never saw our permanency plans or paperwork, we came away with the feeling that the means by which most caseworkers “document” their steps or efforts is by merely checking off a box or writing a short phrase or statement that these steps are occurring.
That being said, ASFA’s requirement that states concurrently plan for and document in writing their steps taken toward adoption and permanency for children is worth maintaining because at a minimum, it should motivate the caseworkers toward child-specific recruitment and placement efforts if only so that they can document them.

Sadly, the report also found that caseworkers did not even understand what the term “concurrent planning” meant and therefore were not incorporating it at all in their cases. Some thought that it meant having a “back up” plan in case the first goal was not accomplished. This clearly voids ASFA’s intent of protecting the child from a longer stay in foster care. It also reveals that often caseworkers are expected to implement such planning without any type of additional training or instruction. Another challenge raised was that some states contract out adoption or placement services and when they do so concurrent planning is difficult to implement because contracted adoption work does not begin until the case is transferred (Katz, 1999). This is further complicated when in the transfer between public and contracted agency leaves ambiguity as to who is charged with the responsibility of documenting the steps toward permanency. Children may stay in foster care longer as a result.

The lesson learned from the above examples is that the use of concurrent planning is not always straightforward and some complexities arise in incorporating this principle into the child welfare process. The good news is that some states have developed solutions to these issues that have worked and in some cases, continue to work. For instance, research shows that some states implemented concurrent planning with the idea of having direct communication between the birth parents and caregivers, which resulted in a higher rate of voluntary relinquishments and open adoptions (Concurrent Planning: What the Evidence Shows, 2005).

The report lists many factors in a child’s case that tend to lead to more successful concurrent planning, but one that is interesting to note is that the research among states revealed that an agency’s terminology for foster and adoptive parents indicated their attitude and perspectives on adoption and permanency and how these families were used in the concurrent planning process. Agencies that designated these families as “resource families” “tended to involve them more fully in the planning process and make earlier foster/adoptive placements for children than did those who referred to such families as “legal risk.” This suggests that that state workers views of adoption and permanency and the families coming forward for these efforts are possibly as or more important as policy and regulations for implementation and success of concurrent planning.

Concurrent planning and documentation of efforts toward adoption and permanency are both essential parts of finding a permanent family for children in the foster care system and their processes need to continue to be strengthened and improved so that children do not spend more time in the system then is actually needed.
RECOMMENDATIONS

To encourage more effective efforts by child welfare workers in implementing concurrent planning, federal policymakers should:

- **Provide states with resources and training in the area of concurrent planning for child welfare workers.** Additional training for case workers is vital. States should be required to map children's progress in a permanency plan more comprehensively to reflect each child's individual status and needs.

- **At the same time, the federal government can encourage states to explore outside partnerships or dedicated workers whose full-time job is concurrent planning.** Similar to how Independent Living Programs have dedicated workers, dedicated concurrent planning workers or partnerships would have expertise in pursuing permanency options upon termination of a child's parental rights.

- **Provide state child welfare workers with training, resources and guidance as to how to go about recruiting foster and adoptive parents.** Concurrent planning for permanency is not possible without foster and adoptive parents to place a child with. Training on how to tap into existing resources or guidance on child-specific foster or adoptive parent recruitment efforts should be made available to all state caseworkers to empower them toward successful concurrent planning. Standardized training and resources would allow for more uniform and effective recruitment of potential families for children. This in time will allow for an increased number of quality foster homes that may lead to an increased number of adoptions. It will also increase the quality of caseworkers, which will in turn allow for smaller caseloads and increased production in the workplace resulting in a better child welfare system.

- **Support states to provide more information and explanation to youth with respect to different permanency avenues.** The federal government should develop an informational resource about the permanency options available to youth once their parents’ rights are terminate and require that all options be presented and explained to a youth in detail along with the legal and foster care services consequences of each option. Youth deserve the right to know what their options are when choosing what placement they feel would suit them best. This discussion must occur with the foster youth prior to any impactful decisions being made in order to make sure the youth is placed in the best possible permanency plan and placement for all parties involved.

- **Encourage states to connect foster children with mentors at early stages upon entering the foster care system and involve the mentors in the concurrent planning process.** Youth should have an advocate or mentor to help and support them in these settings. Youth must be asked if there is a significant person in their life who can fulfill the role of a mentor.
Request a GAO study on states’ efforts to implement concurrent planning. This will require states to be held accountable for the information needed to determine if concurrent planning is being conducted under the mandated provision of ASFA as well as highlight positive implementation of concurrent planning and allow for information sharing on best practices among the states. Should GAO fail to acquire this report due to the states not providing this information, a monetary punishment must occur in an area that won’t affect the money that is set aside for foster care services.

To fully implement the documentation of adoption efforts requirement of ASFA, federal policymakers should:

- Require that child-specific efforts and services for each child be documented from the moment the child enters care. Rather than beginning to document child-specific efforts toward permanency at the point where reunification is no longer an option, states’ efforts and services in relation to each child’s potential permanency paths should be documented from the moment the child enters care. Caseworkers should begin collecting information on the child’s relationships with family, friends and mentors. This will make states more accountable to tracking a child’s progress toward permanency and encourage caseworkers to initiate efforts and have information in place to begin pursuing permanency sooner should it become necessary.

- Require that state caseworkers be accountable for the documentation of child-specific efforts even if the agency contracts with outside organizations. The federal government should require specialized organizations that contract with state agencies to report information on steps toward adoption and permanency directly to the state and then hold the state responsible for any undocumented occurrences. One of the benefits of this process is the state’s accountability would be increased because of the decreased ambiguity as to the responsibility for these efforts. Ultimately, the child is in the care of the state, not the contracted agency.

**Permanency Plans**

Section 302 of ASFA created the federal term “permanency hearing” and requires that foster children’s permanency plans must include a statement of whether and when the child will be reunited with their family, adopted, or go through a guardianship proceeding. Interestingly, the states are allowed an exception to this rule if the state documents “a compelling reason” that none of the aforementioned options or residing with a relative are in “the best interest of the child,” and allows for such a child to be placed in “another planned permanent living arrangement” ("APPLA").

ASFA’s provision to require that permanency hearing outcomes be documented as part of a child’s permanency plans are intended to encourage states in their efforts to find
permanency through adoption, guardianship and kinship care and not long-term foster care. But one could argue that by including the exception for “another planned permanent living arrangement” (APPLA) actually negates this intent. APPLA is essentially another term for long-term foster care or group homes. By making APPLA an option for foster children’s permanency plans in ASFA, the federal government is allowing state to concede the possibility of permanency in an actual family setting through adoption or guardianship. We would argue that by including APPLA in permanency plans, the term “permanency” loses its true meaning.

As mentioned above in the discussion of *Timelines for Permanency*, APPLAs can often become a venue for caseworkers to officially dismiss foster children as not being “adoptable” by stating that it is not in their best interest to pursue an adoption since it is unlikely for an older child, or that the youth “did not consent” to an adoption as a compelling reason. Another reason for this outcome is simply that a permanency plan’s option box for “adoption” is checked on a piece of paper, but then the caseworker never actively pursues an adoptive placement.

For example, the state of Maryland’s APPLA Form, readily available on the internet and last updated in November of 2009, contains a checkbox system that includes “emancipation/independence” and “placement in a long-term care facility until transition to an adult facility” as permanency options. Later in the form, there is a box that asks if the child consented to adoption, and among the options listed are “child DID NOT want to be adopted,” and “unknown.” Many times social workers will check off a box and if asked why adoption was not an option they will explained that it was “not in the best interest” and give seemingly compelling reasons exceptions to justify; or they will only ask the child once at a very young age when they do not understand adoption and will never be given the option again. Our concern is that caseworkers will use loop holes like Maryland’s check box system to technically follow the law but in the end avoid its goals.

Consider Jeremy’s story: Jeremy entered foster care due to abuse and neglect at the age of thirteen. For the next five years in foster care in Colorado, Jeremy's permanency plan was APPLA – long-term foster care. While he had permanency hearings every six months, in accordance with federal law, Jeremy’s permanency plans never changed. Ultimately, this was a positive situation for Jeremy, because his foster mother was an incredible caretaker and remained committed to his welfare and success. Now, at the age of 22, after having received the educational benefits tied to remaining in foster care, Jeremy's foster mother has begun the process of legally adopting him. It seems that despite all of the “compelling” reasons to the contrary, permanency was not only possible for Jeremy but clearly in his best interests.

Jeremy is the first to admit, though, that his case of a positive outcome despite having APPLA, or long-term foster care, as his permanency plan is extraordinary. Outcomes for youth who age out of foster care from APPLAs or long-term foster care and group homes are typically very bleak, unlike children who have been adopted or have a legal guardianship in place. A report discussing outcomes of older youth in foster care conducted by Casey Family Programs indicates that 30 percent of youth who have aged out
of foster care do not graduate high school and less than half of them will secure a job within four years of exiting care. This report touched on the highly transient living situations for this population in that 32 percent will change residences at least five times anywhere from two to four years after aging out of care. In addition, 30 percent of the males who age out of the foster care system will be incarcerated at some point before their twentieth birthday. (Improving Outcomes for Older Youth In Foster Care, 2008).

By contrast, research indicates that children with permanency through adoption or guardianship have better outcomes than those who “age out” of foster or group homes. (Fostering Connections Resource Center, Myths and Facts, 2010). For a child in foster care, adoption can have intangible benefits including a stronger sense of security, identity, and belonging, as well as a continuing support network. Research also shows for these children, there is less risk of poverty, homelessness, and incarceration for children who are adopted out of foster care (HHS, Benefits of Foster Care Adoption, 2006).

The inclusion of the APPLA language was intended to allow for exceptional circumstances. But perhaps its inclusion sells short the children whose social workers make APPLA their permanency plan, which, in our opinion, is in stark contrast to the intentions behind ASFA to discourage the use of foster care as permanency.

RECOMMENDATIONS

To ensure better permanency outcomes for children, and further the intent of the bill’s permanency hearing provision, federal policymakers should:

- **Remove the option of “another planned permanent living arrangement” from the list of permanency options in ASFA.** This would disallow states to concede adoption and guardianship as avenues for permanency and restore the true meaning of the word “permanency.”

- **Include foster children in permanency hearings and the selection of their personal permanency plan.** Youths should participate and have a voice in their permanency hearings. The special vulnerability of children in foster care and the magnitude of the decisions about life outcomes that are discussed during such hearings make it vital that youth be not only present but also active participants. Youth should also have an active role in the selection of their permanency plan. Too many foster youth learn what their permanency goal was long after they age out of care and wish they had an opportunity to voice their personal preferences about their permanency plan.

- **The federal government should request a report from states on their permanency plans for foster children and their outcomes.** There is a need for quality research regarding how APPLA has impacted youths. Reporting on permanency goals and their outcomes will show state caseworkers and federal
policy makers where caseworkers are relying too heavily on APPLAs instead of pursuing adoption or guardianship for children.

- **AFCARS should provide data on the reasons youth who age out of the system.**
  AFCARS data currently lists the number of the following outcomes for children in foster care: reunifications, youths living with relatives, adoptions, emancipations, guardianships, runaways, and deaths. It fails to provide the reasons behind youth emancipating or “aging out” of the foster care system. ASFA’s effectiveness would be better understood if we exposed the failures in the system to move children to permanency in the family.

**Foster and Adoptive Parent Qualification**

States are required by Section 106 of ASFA to perform criminal background checks for any prospective foster or adoptive parent. This must be done before a child can be placed in their home. If this criminal background check is not completed, ASFA states that the child cannot be placed with that foster parent or adoptive parent and no maintenance or adoption assistance payments can be given. Further, if the criminal check reveals certain felonies within the last five years leading up to the background check, ASFA prohibits placement of a child in the home.

ASFA’s requirement of criminal background checks was a good starting point and is in keeping with the bill’s theme of promoting safety. Children that have faced the types of traumatic events that bring them into the foster care system should never have to face a foster placement with a family that is unsafe and therefore multiplies the trauma to the child. After our experiences in many foster homes, however, we are concerned that criminal background checks alone are not sufficiently weeding out unsafe placements for children. To us, safety means more than just physical safety – it should include emotional and mental safety as well. Criminal background checks do not screen for emotional or mental abuse. Another related concern we have is that many of the foster parents who are physically, emotionally, and mentally abusive are motivated to open their homes to foster children by the financial incentives of foster care – monthly stipends.

There are 123,000 children in care available for adoption (AFCARS, 2009). The need for foster homes in states is tremendous. State qualifications are often too lenient for families to foster or adopt children and there are not enough guidelines to help eliminate potentially abusive placements. Compared to other families, foster placements tend to have lower incomes and less education (O’Hare, 2008). The high demand for foster and adoptive parents allows agencies to overlook characteristics that might serve as red flags or warnings of possible abusive placements. Beyond the issue of screening out unsuitable placements, once a child finds themselves in one such a placement, they are virtually powerless to find a way out of these situations.

Josh experienced a placement in a foster home that had two different dinner tables. One table was for the foster youth and the other was for the biological family. One table
had a hot meal while the other table had sandwiches. Think about the psychological impact on the foster children that this had. The foster father in this placement also had drinking and anger problems. To prevent the foster youth in the home from informing the case managers, the foster mother would often buy the foster youth cigarettes and alcohol.

While Josh's foster parents' actions did not rise to the level of criminal conduct, his experience illustrates why criminal background checks are not sufficient to reduce the risk of hazardous placements. The challenges involved with opening your home to foster children require more than just a clean criminal background to ensure that the placement will be safe and nurturing. It requires specialized training. Simply because a person is well-intentioned and has a college degree does not mean they are qualified to do air traffic control. Similarly, the child welfare system has a responsibility to make sure the right people are housing foster youths as well as equipped with services and support.

RECOMMENDATIONS:

To follow through further on ASFA’s theme of safe foster and adoptive placements for foster children, and the intent of the bill’s criminal background check provision, federal policymakers should:

- **Require states to conduct psychological evaluations of prospective foster parents during the home study and criminal background check process.** ASFA only required foster parents to have a criminal background check done before becoming a foster parent. Some states also require that assessments of prospective foster parents also consider their character and motivation. While this is on the right track, it would also be useful for the federal government to require that states to conduct psychological evaluations of these families to prevent the recruitment of emotionally or mentally unstable or abusive placements. This would ultimately increase the quality of foster home placements and decrease the number of moves that young people make in the system.

- **Require states to investigate prospective foster parents’ credit scores.** Federal law should require screening of potential foster and adoptive parents’ credit score. Information about these scores could prevent placements with families who are motivated solely by the financial assistance received. Caseworkers should understanding the financial history of an individual before placing a child in their care.

- **Encourage states utilize more efforts to expand their pool of qualified foster parents.** As stated above, there is a tremendous need for foster placements and too great a focus on group homes and independent programs. States should be incentivized to recruit and train more foster families.
The Adoption Incentive Program

Originally authorized for the first five years after ASFA was enacted, Section 201 allowed for states that meet certain requirements to be eligible for federally funded bonus payments for increased adoptions out of foster care. This provision was designed to incentivize states to find more adoptive homes for foster care children (Child Welfare League of America, 2008). To be eligible for the payments, states must exceed the baseline number of adoptions out of foster care for that state, submit specific adoption and foster care statistics to the federal reporting system, and provide health care insurance to all special needs children. Eligible states could receive $4,000 for every foster care adoption exceeding the base number of such adoptions for that year. Such funds remain available to the state for 2 years and can be used for any child welfare services that states are authorized to provide pursuant part B or E of Title IV of the Social Security Act.

The adoption incentives program advances ASFA’s goal of facilitating permanent families for children in foster care. The basic premise of this award program is that as the number of foster care adoptions go up, the number of children languishing in foster care decreases. Since ASFA’s enactment, the number of adoptions has gone up considerably. It is not clear whether or not this is because of the new requirements or because of the adoption incentive program or both.

Over the last years, the adoption incentive program has proven to be an effective tool and has remained popular among lawmakers. It has also undergone several changes since being enacted. As foster care populations decreased, the eligibility requirements became harder to meet because the baseline formula was set up so that state’s had to have more foster care adoptions than they had before. In 2003, Congress addressed this concern by resetting the baseline numbers, providing additional incentive for older child foster care adoptions (9 or older), and increasing the total dollar amount a state could receive per child. (Child Welfare League of America, 2008). The incentive program was again reset and reauthorized in 2008 in the Fostering Connections to Success and Increasing Adoptions Act.

Our first concern in looking at this provision is its focus on quantity rather than quality. To achieve more adoptions for foster youths seems like a great goal to have. But after reflecting on this provision, the objective may have been oversimplified in that it fails to include significant issues such as the time spent in care before adoption or unsuccessful adoptions. Not only are states rewarded equally for finalizing a foster care adoption of a child who was in care for 6 months after TPR and a child who languished in care for 6 years, but are also permitted to keep incentive payments even if adoptions later fail.

To further illustrate this point, in our collective experiences, two of us either achieved or are in the process of achieving adoption at the age of 22. Jeremy’s experience was a success story in that he was fortunate to make a lasting connection with his first foster care placement. In his case, adoption was only prolonged because he would have lost money for college had he been adopted earlier. In stark contrast, Josh had 35
placements until he was connected with the person who would ultimately adopt him. Had either adoption occurred before they were 18, they would have both been counted toward the incentive program in their respective states. While adoption was the outcome for both Josh and Jeremy, an award for such outcomes neglects the gross disparity between their experiences in the interim.

It is also unclear whether the program, as it is currently structured, is able to meet its stated objective: to incentivize adoption. A fundamental challenge with the existing program is that it is “discretionary,” meaning that Congress sets the level of funding for this program each year through the appropriations process. As a result, funds appropriated for this program may not be sufficient to cover what states actually earn. For example, the funds awarded in FY 2008 did not cover the payments earned by states in the subsequent fiscal year (HHS Cumulative Adoption Incentive Earning History by State, 2008). As this trend continues, states are less likely to strive to achieve bonuses that they may not fully realize. A related concern is whether or not the amount earned by states is enough to serve as an incentive. For instance, California’s child welfare system totaled over 4 billion dollars in 2006 (Children’s Defense Fund, 2010). However, its payment from the federal government pursuant the adoption incentive program in 2009, the fourth largest award issued in that year, was roughly 1.5 million. (HHS, FY 2009 Adoption Incentive Awards, 2009).

RECOMMENDATIONS

To further ensure that the adoption incentive program results in the intended reality of permanency for children, federal policymakers should:

- **Incentivize states to follow the best practice when finding permanency for foster care youth.** Simply because an adoption is not finalized does not mean that states are not doing the right things to facilitate adoptions. The reverse is also true. Simply because adoptions are occurring, does not mean that states are doing the right things. To address this, Congress could add incentives for meeting all aspects of ASFA. For instance, states could receive a greater payment when an adoption occurs within a reasonable time span or the incentive program could require the states to refund their bonus to the federal government each time an adoption fails.

To implement ASFA’s objective of increasing permanency for children, federal policymakers should:

- **Ensure that states are paid the full amount earned through the program.** The federal government should not limit the funding available to states through this incentive program. States’ efforts in finding adoptive placements for children should be rewarded in full. If we really want states to continue to increase the number of adoptions out of their foster care populations, open-ended funding provides a much greater incentive. States will be more likely to augment their foster care adoption efforts if they knew they would receive the full amount earned.
Encouraging Adoptions for Special Needs Children

Special needs adoptions were a major concern at the time of ASFA’s enactment. The purpose behind providing additional support for these adoptions was two-fold: to recognize the additional challenges of finding permanency for a child that is more difficult to place, and to reward states for putting extra effort forth to facilitate these adoptions. Due to low number of adoptions for special needs children, states were incentivized under section 201 of ASFA with an additional $2,000 for every special needs adoption exceeding the base number of special needs adoptions for that year.

Federal and state definitions of special needs goes beyond merely medical conditions or disabilities and include other groups of children that are harder to place for adoption – children of color, older youth, sibling groups, or children with emotional and behavioral challenges, for example. It is important to note that the actual definition of what constitutes a child with “special needs” was left to the states. As a result, while a child in one state may qualify under his state’s definition of “special needs” for this state incentive to pursue permanency, another child in a different state facing the exact same challenges may not. The full potential of ASFA’s special needs incentive provision is therefore dependent on individual state’s initiative to broaden their definition of children with special needs.

The Child Welfare Information Gateway online publication “Adoption Assistance by State” lists all 50 states and the District of Columbia’s definition of special needs for the purposes of adoption and foster care. According to this listing, every state except Georgia includes some type of age requirement in its definition of special needs. Race, ethnicity and minority status are incorporated in 43 states definitions of special needs (Georgia, Idaho, Illinois, Indiana, Kansas, Minnesota, Mississippi, and Utah do not incorporate this factor into their definitions of special needs). By contrast, all 51 jurisdictions include sibling groups in their definitions of special needs, and none of the jurisdictions address religion in their definition of special needs.

Historically, it is more difficult to find permanent placement for older youth – which is why every jurisdiction except Georgia lists some type of age requirement in their special needs definitions. AFCARS data from 2008 shows that the average age of children waiting to be adopted is 8.1, while the average age of those adopted out of foster care is 6.4. And of the 123,000 children currently available for adoption from foster care, 65% are 6 years old or older. (AFCARS, 2009).

Also, minority children consistently account for a larger portion of the foster care population than their percentage in the general population and are often regarded as difficult to place, thus defined as having a “special need”. In our Foster Youth Internship Class of 2010’s collective experience, the average length of time spent in foster care for the three African American youth among the nine of us is six years more than the average length of time for the entire group. The average time our overall class spent in care was
nine years, and the average time the three African American youth spent in care was fifteen years. Interestingly, each of us was placed in care as very young children.

A related issue is that many of the states whose special needs definitions include race only address African American children. According to AFCARS, Hispanic children make up 20 percent of the total population of children in foster care, but Alaskan/Native Americans (2 percent), Asians (1 percent), Hawaiians/Pacific Islanders (statistically equivalent to 0 percent) and two or more races (5 percent) making up 11 percent of the total foster care population as well. In some localities it may be very pertinent that they be included as a special needs group as well.

Lastly, and something states have yet to address in their definitions of special needs, is that in some circumstances, a child entering care may belong to a minority religion. Religion can play such a crucial role in a child’s life during what is often a traumatic time of entering foster care, and so deserves sensitive treatment. A child that has been brought up one religion and is then placed in a home with a different religious preference or where there is no access to religious observance for them is not able to freely observe his or her religion. For example, if a child is Buddhist and enters foster care in Utah, where 88.9% of the population is Mormon (Association of Religion Data, 2000), the child should be classified as special needs so that the state is incentivized to make extra efforts on their behalf to find a family that supports their religious faith.

RECOMMENDATIONS

To meet the needs of permanency for children in unique circumstances that would benefit from adoption, federal policymakers should:

- Continue to leave the definition of “special needs” to the states, but require that each state address the demographics of race and religion in their definitions of “special needs”. States may still account for local trends and populations with their definitions of special needs, but at a minimum the definitions must address the following:
  - **Race**: Each of the remaining eight jurisdictions that do not include race, ethnicity or minority status in their special need should be required to include it, and for those states who include only African-American children in their special needs definition, they should include extend their definition to all minorities. States can do this by comparing their overall race demographics to those of the children in foster care in that state.
  - **Religion**: No states currently consider a child’s religion as a special need. States should be allowed to make religious observation a special need in cases where a child comes from a minority religion, so that states are incentivized to make the special efforts necessary to place these children with a family of the same religion.
**Increased State Accountability for Children’s Permanency Outcomes**

Section 201 of ASFA required that outcome measures be created through a collaborative effort by the Department of Health and Human Services (HHS), child welfare advocates, and state legislators. States’ funding was tied to providing certain data to Adoption and Foster Care Analysis Reporting System (AFCARS)—the previously existing data collection service charged with reporting and monitoring adoption and foster care progress and activities nationwide. (Sec. 201)

ASFA’s intent to track children in foster care’s permanency outcomes by tying state funding to their providing data to the Adoption and Foster Care Analysis and Reporting System (AFCARS) was a great idea. There is a dire need for this data as it is important for identifying not only how states are performing, but also how they might improve their processes on behalf of children in care. The problem is that much of this data is not actually being reported and states are not taking this requirement of ASFA seriously (GAO, 2003). In addition, data is not always uniformly collected from all states. Therefore, the level of state accountability for this data on children’s permanency outcomes clearly needs to be increased. In order to make improvements, policymakers have to know what is working and what needs to be amended or changed.

There is also a need for further expansion of the data which states are required to report. For example, states are not currently required to report the number of failed adoptions to the federal government. Some sources estimate that somewhere between 15 and 25 percent of domestic adoptions disrupt (Center for Adoption Policy, 2010). Information like this needs to be reported to the federal government in order to know what is working and what is not.

**RECOMMENDATIONS**

To hold states accountable and obtain more comprehensive review of the outcomes for children impacted by the child welfare system, federal policymakers should:

- **Hold states accountable for not reporting the permanency outcomes of children in their care.** If states do not report this critical data, they should not be eligible to receive adoption incentive payments, or for larger states like California whose child welfare budgets are larger than the federal pot of money allocated for adoption incentive payments, a penalty against a larger program unrelated to child welfare should be considered.

- **Facilitate oversight and accountability for state data and accountability through an entity independent from the federal or state agencies.** This separate entity could be assigned to establish a process of collecting performance data and assessing compliance with federal standards. This entity could also create a broad spectrum of ways to collect data and then go out to the states and help implement these new approaches on data collection. This would be similar to the relationship
between the Center for Medicare and Medicaid Services (CMMS) and the Joint Commission on Accreditation of Health Care Organizations – a privately run accountability system which ensures hospitals are meeting certain guidelines and standards. While CMMS sets clear standards that health care organizations must meet to get reimbursed with federal funds, organizations who meet Joint Commission standards are deemed to have met them.

- **Expand the data being collected and begin tracking this data earlier and following outcomes longer.** Every state should begin implementing a data collection system that would track each child’s progress from entrance into the system until exiting the system. It should even take it one step further and track a youth after exiting care into an adoptive placement for a certain amount of years. Social workers would continue collecting data on the child’s progress. Another example would be the same data collection via a hired social worker focused on youth who have aged out of the system and are currently receiving government benefits to foster youth such as transitional housing stipends and educational training vouchers.

- **Require states to submit statistics regarding dissolved adoptions.** The practice of reporting unsuccessful adoptions would generate more knowledge as to the well-being of foster care children in their outcomes, put the government in a better position to address this issue and the ultimate safety of children who face adoption dissolution, and emphasize the need to also focus on quality practices to match children to adoptive families and not just the number of children adopted out of foster care in a given fiscal year.

**Conclusion**

The first time Markus heard that children could be adopted from the foster care system, was two years after he aged out of care, when he was applying for scholarships for college. His experience in the system was more appropriately characterized as a “lack of effort” than any degree of “reasonable efforts”. A young African American male child, he spent 16 years in the child welfare system and was never once asked what he wanted his permanency plan to be. He best equates his experience to the feeling of walking in the dark—not knowing where he would live next, who he would be placed with, or what anyone was actually doing to improve his situation. After encounters with other youth in care, namely older minority boys, he learned that his was a story shared by many others. Dave Thomas Foundation for Adoption found in their research that 63% of Americans perceive adoption to be a favorable option for children in foster care and 73% agree that more should be done to encourage adoption.

To date, much of the federal efforts have focused on connecting with and encouraging those who positively disposed to adoption. But, it is important to remember that there is another side to the equation. When asked to reflect on our views on obtaining permanency through adoption, we found we had differing opinions derived mostly from
our individual life experience. Josh met the man that later adopted him after he had already left care at the age of 22 through a mentoring program. If given the choice of adoption earlier in his life he would not likely have taken it. After experiencing more than 35 placements in care, the idea of introducing yet another family into his world was overwhelming and as a young teen he didn’t realize how much he still needed the support of a family. Now Josh says, “For me, it is all about adoption.”

Jeremy’s first and only foster care placement was with a wonderful foster mom who would have adopted him sooner had his educational benefits in the state of Colorado not been tied to his remaining in foster care. Now, after graduating college, he and his foster mom have started the adoption process. The delay caused by his need for services does not bother him. To Jeremy, she’s always been his mom – with or without an adoption decree.

Victor’s last placement was with a very good foster family who provided him a stable home, cared for him, and helped him transition into adulthood. He feels this foster home sent him on a path toward a successful life and protected him from negative outcomes. He has never felt that being adopted would have changed his path.

We share these thoughts with the hope that they will help to bolster federal policymakers’ ability to see the Adoption and Safe Families Act for its successes and its disappointments and be better informed about the resulting implications on the products of the American child welfare system. In the opinion of four American-made foster youth, it’s time to build on the Adoption and Safe Families Act’s objectives of permanency, safety, and well-being.
THE FEDERAL FINANCING OF FOSTER CARE
Federal funding for child welfare services was first authorized under Title V of the Social Security Act in 1935. From that point through 1962, Congress continued to expand the list of child welfare services which could be paid for with federal funds, including services that supplement or substitute for parental care. In 1958, Title V was amended to require states to provide matching funds to draw down their share of federal child welfare funds. In order to be eligible to receive financial support from federal government a court had to make a determination that remaining in the parents’ home was not in the best interest of the child. In 1962, Congress authorized federal foster care payments on a permanent (indefinite) basis. By the mid-1970’s, over 100,000 children were receiving these federal foster care benefits.

Today’s child welfare funding structure began in 1980 with the passing of the Foster Care and Adoption Assistance Amendments (P.L. 96-272) which created the Title IV-E Foster Care and Adoption Assistance Program and established federal foster care as an independent program. Unlike Title IV-B, which is limited to a capped funding level, Title IV-E is funded on an open-ended basis. This was part of a refurbished child welfare system in which Title IV-E was linked with Title IV-B and made for an entirely new financial system for child welfare.

In 1993, Title IV-B was amended to create the Grants for Family Preservation and Family Support Services with annual mandatory funding set at $60 million in FY1994 and rising to at least $255 million by FY1998. The creation of this new funding source was seen as a way to encourage states in their family support efforts. In 1999, the John Chafee Independent Living Program, made $140 million assistance to help current and former foster care youths achieve self-sufficiency. Finally, in 2001, Congress passed what is known as the “Promoting Safe and Stable Families (PSSF) Act” and authorized $505 million in funds to prevent the unnecessary separation of children from their families, improve the quality of care and services to children and their families, and ensure permanency for children by reunification them with their parents, by adoption or another planned permanent living arrangement.

Over the last several years, there has been much debate over whether the current federal funding stream is closely aligned with federal policy. The sections that follow are the personal reflections of foster care alumni and their recommendations on how the federal government might make better use of its “purse strings” to further its goals of increasing permanency and safety in the lives of children impacted by the U.S. foster care system.
A PENNY SAVED IS A PENNY EARNED

Over the course of this summer, we have heard arguments made that more money is needed if states are to more effectively serve the children in their care or that federal funds invested in the foster care system should be spent differently than they are now (i.e. with more flexibility or accountability for states, etc.). Leaving these arguments aside, we would argue that the federal dollars already invested could be better spent. LaTasha’s experience in care left her with three impressions: 1) a considerable amount of money was spent providing her and her foster family services they did not need or were not a high priority. 2) Services that she and/or her biological family might have benefitted from were not available because they were not covered under Title IV-E. 3) A significant portion of federal funds is spent in supporting the foster care system and not foster care youth.

Re-Thinking Foster Care Maintenance

Because foster care maintenance payments are administered by states and are therefore subject to each individual state’s rules and rates, the amount of monthly support a foster parent receives varies from state to state. While the amounts differ, most state’s payment rates are based on three basic factors: age of the child, type of placements, and any special needs the child might have. Interestingly, the amount provided for the care of the child is often well short of the actual cost of caring for the child in that state. For example, LaTasha was 16 years old when she entered foster care. If she lived in the District of Columbia, her foster mother would have received $899.00 per month to care for her, but only received $597.00 because she lived in California. This presents an interesting dilemma nationwide. As the chart below demonstrates, the cost of raising a 16 year old in CA is higher than in DC and the cost of raising a teen in Missouri is twice the level of support provided to foster parents.

![Cost of Raising a 16 Year Old](chart.png)

Source: Time for Reform, Too Many Birthdays in Foster Care and United States Department of Agriculture, Center for Nutrition Policy and Promotion
Another flaw of the current foster care maintenance payment system is that it is too open to misuse by foster parents. While many foster parents enter the system to provide a home to a child in need, there are those who become foster parents for the additional financial support the maintenance payment provides. According to a 1999 report by CASA, 7.2 percent of families become foster parents as a way of increasing their income (CASA). In LaTasha’s experience, there were several instances in which funds that were given to her foster parents were used for purposes outside of her needs. For instance, her foster mother would often use the foster care maintenance payments to purchase clothes for her biological daughters because she said “it would not be fair for LaTasha to get new clothes, but my kids don't.” Based on experiences such as these, we think federal policymakers should consider replacing the current system of monthly stipends in the form of a check with an electronic benefits transfer (EBT) system, similar to those used to deliver unemployment benefits and food stamps. Under an EBT system, child welfare administrators would not only be able to closely monitor transactions made on behalf of the foster youth but would also be relieved of the administrative burden and costs associated with dispersing the checks.

A related problem is that a significant number of youth in care report never seeing the money given to them or having any say in its use. Realizing that the current system is premised on the notion that young people’s finances must be ultimately managed by an adult, youth in foster care are often deprived of the right to make the types of financial decisions being made by my peers (i.e. with job wages or an allowance). Being deprived of this voice is not only unfair but leaves foster youth unprepared for the days when they are left to make these decisions on their own (i.e. emancipation). As an example, once LaTasha entered foster care, the decision of whether or not she was going to have glasses, a onetime fee per two years, or contact lenses, often requiring an ongoing expense, was ultimately left to her foster mother. Because well-manicured nails were a priority to her foster mother, she would use LaTasha’s stipend to pay for her and her biological daughter to get their nails done every two weeks. She once asked to be able to use the stipend funds allocated for her nails toward a visit an eye doctor for a contact lens prescription and was denied.

Support Needed but not Available

LaTasha is from a very small town in Northern California. One day after she had emancipated from the foster care system, she was at work when her biological mother, who she had not talked to for two years, walked in the door. Her mother started crying telling her how much she missed her, and begged for the chance for a relationship. As a young adult, who did not maintain a lasting relationship with my foster parents, LaTasha was feeling alone in the world at 18. She decided to give their relationship another try and on her own, without a parent, mentor, counselor, or other trained professional to guide her, began to reunify with her biological family.

After a while LaTasha’s mother started to pressure her to forgive my abusive father for all of the wrong he had done to her. While it was really nice having a family again, it
seemed like there was an elephant in the room every time LaTasha would visit with her family. As time went on it was harder and harder to ignore events which had drastically changed her family for two years, and her family started have little fights about her time in care and the events that lead to her entering the foster care system. LaTasha’s family has since taken monumental steps forward in their healing process as a family, but she wishes it didn’t take six years.

LaTasha believes if her family would have had access to support services, such as counseling and substance abuse treatment, before she entered the foster care system or counseling to support her family as they worked toward reunification, her two years in care could have been avoided.

*Savings Earned from Title IV-E Could be Used to Cover Shortfalls in Title IV-B*

Fifty percent of the total dollars that the federal government invests in state’s child welfare systems are funneled through Title IV-E. As was stated earlier, as an uncapped entitlement program, IV-E payments are limited to services related only to maintaining foster youth in care.

An equally as important but less resourced fund is Title IV-B. Divided into two subparts, this program allows states to invest in supporting youth outside of care:

- **Subpart 1:** “The Child Welfare Services Program provides money and services that accomplish the following: protect and promote the welfare of all children; prevent the neglect, abuse or exploitation of children; support at-risk families through services which allow children, where appropriate, to remain with their families or return to their families in a timely manner; promote the safety, permanence and well-being of children in foster care and adoptive families; and provide training, professional development and support to ensure a well-qualified workforce” (Stephanie Tubbs Jones Child Welfare Services, n.d.).

- **Subpart 2:** The Promoting Safe and Stable Families Program has a capped entitlement component (the state is entitled to reimbursement for every single claim it submits to the federal government, up to a certain level, or cap) and a discretionary component (subject to the annual Congressional appropriations process). The funds can be used to support services for family preservation, family support, time-limited reunification, and adoption promotion and support (Casey Family Programs, 2010).

IV-B funds account for only 5% of federal funding of the foster care system, but provide services that focus on preserving familial relationships by servicing the problems that all too often face American families (NACAC Report). Services rendered to youth and their families under this part are not as subject to the inflexibility of the Title IV-E reimbursement system and so allow for there to be a more customized approach the risks
and problems facing individual children and their families rather than the “one size fits all” approach that seems to be prevalent in IV-E.

LaTasha cannot help but wonder if she would be better off if some portion of the funds she felt were wasted on her while she was in care had been instead made available to help her family to get healthy and stay together. To further illustrate this point, below is a chart detailing just some of the cost of maintaining LaTasha in foster care.

<table>
<thead>
<tr>
<th>Expenses incurred by the state</th>
<th>Cost</th>
<th>Total cost for 2 years in foster care</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foster Care Maintenance Payment</td>
<td>$597</td>
<td>$14,328</td>
</tr>
<tr>
<td>Medicaid Cost for therapy each week</td>
<td>$150</td>
<td>$15,600</td>
</tr>
<tr>
<td>Unnecessary Medications</td>
<td>$100</td>
<td>$2,400</td>
</tr>
<tr>
<td>Medicaid Cost per month</td>
<td>$111</td>
<td>$2,664</td>
</tr>
<tr>
<td>Savings to be used for reunification or preservation</td>
<td></td>
<td>Total: $34,992</td>
</tr>
</tbody>
</table>

Focus on Foster Youth, Not the System

2.6 billion of the Title IV-E funds are spent on administrating the foster care system (GAO) and $3.9 billion is spent on direct services to youth, mostly through monthly maintenance payments. We would suggest that there has to be ways for the federal government to slim down the costs of administrating what many have called a broken system. If savings can be achieved through administrative efficiencies, such as an increase in the use of technology or the promotion of public-private partnerships, this savings could be used to fund gaps in under-resourced programs such as Title IV-B.

RECOMMENDATIONS:

It is not necessarily the amount of money used to serve the children in foster care, but the ways in which money is used that can dramatically improve outcomes. To address this issue, federal policymakers should:

- Redirect monies and effort currently directed at determining Title IV-E eligibility of each child who is removed from their home of origin (the Foster Care Lookback) and use it to fully fund Title IV-B. Eliminating the foster care “Look Back,” which has social workers investigate whether or not the biological parents of the youth in care would have been eligible for assistance under the defunct program, Aid to Families with Dependent Children. It is estimated that the time and paperwork that it takes social workers to determine eligibility totals over $200 million administrative dollars.
• Eliminate administrative waste in the child welfare system by administering Foster Care Maintenance Payments through Electronic Benefits Transfer (EBT) cards. EBT cards would serve a dual purpose of reducing the administrative burden of printing, authorizing, and sending Foster Care Maintenance Payments per month and would increase accountability through an electronic transaction tracking system for the money being spent. The money saved by making this change should be directed towards Title IV-B and further support families.

Moving Beyond Title IV-E

Wendy will never forget the day her mother was killed, turning her life upside down. She was only six years old. Before this tragic day, her memories were of two parents madly in love and her and her three siblings just kids doing “kid things” together. This all ended when on a family vacation, her family’s car was struck head on by a drunk driver and her mother was instantly killed. Her loss was devastating to all of Wendy’s family, but in particular for her father who not only lost the woman that he loved, but also the mother of his children. Suddenly her father, who until then was faced only with working hard to support his family financially, was now also faced with the prospect of having to raise four children all by himself. Overwhelmed with stress and grief, Wendy’s father, never much of a drinker, began using alcohol to cope. Her father soon began to withdraw and really only did two things: work or drink.

Even though she was only 7, Wendy became the mother and father to two sisters and brother. Her father’s drinking became constant and ironically, he was arrested for drinking and driving on several occasions. When Wendy was 15 years old, having replaced the bulk of her childhood with parenthood, her father was incarcerated for drinking and driving. She and her siblings were immediately put in foster care and worse, in separate homes.

Looking back, Wendy can’t help but feel frustrated with the federal government’s inability to provide her father with the already available services he so desperately needed throughout her life. She cannot help but wonder if her father had access and knowledge of the multitude of federally funded social services, including grief counseling and child care assistance, could she have enjoyed playing soccer like her peers? With such services, could he have been more involved in her life growing up? Would she then have had an easier time in school? Would her sisters and brothers be different than they are today?

Instead, Wendy’s family remained invisible, adrift among a sea of programs they did not even know existed until it was too late. And when the government finally did step in it was not a voluntary process through which her dad could ask for help and receive it but through an adversarial process where social workers and judges told them what was required for us to be reunited. There has to be a better way.

We recommend that federal policymakers consider ways to establish greater collaboration and increased partnerships among the wide variety of programs aimed at
serving families like Wendy’s. A father in need should be treated like a father in need regardless if the money to help him comes from the Fatherhood Fund, the TANF program or Title IV-B. The chart that follows shows just how many times Wendy’s family “fell through the cracks”

An important and often more easily available home for a youth who has been removed from his parents is that of a relative caregiver or a kinship placement. There are many advantages that kinship care has over the traditional foster care system. A 2009 study found that children in kinship care experience better outcomes in regard to behavior problems, adaptive behaviors, psychiatric disorders, well-being, placement stability, and guardianship than do children in traditional foster care. Furthermore, children in kinship care are less likely to re-enter out-of-home care or have a disrupted placement than are children in foster care (Campbell Collaboration, 2009). However, despite the proven success of kinship care, only four percent of children in the system have a permanency goal of living with a relative and only eight percent of children leaving foster care did so to live with a relative (AFCARS).
Despite the evidence above, the current foster care system and its federal financing structure fail to recognize kinship as a viable permanency option, such as they do with adoption and guardianship. To address the need for an increase in the number of kinship placements, Congress passed The Fostering Connections to Success and Increasing Adoptions Act of 2008, which requires that states spend an appropriate amount of time locating relatives and providing support for relatives caring for foster children. Under this law, families are eligible to receive funds if state agencies determine that reunification is not in the child’s best interest. The Act also stipulates that any youth age 14 or older be consulted before being placed in the kinship guardianship arrangement (Sec. 101). This law took an important step forward. To further the support for kinship care, federal policymakers should also take the steps to address the issues outlined below.
Reduce State Involvement in Lives of Kinship Caregivers

When surveyed about why relatives decline to provide a home to a youth in need, many cite the often cumbersome process to become licensed foster parents as the main reason for not taking in their relative. For some, the barrier is the hours of training and criminal background checks. For others, it is the intervention of the government in their lives that acts as a deterrent. To address the burden of becoming a licensed foster parent, the Fostering Connections Act allows states to impose only minimum safety standards on relatives who agree to house their kin. Despite this step forward, family members may still be suspicious of the state’s motives in requiring any process at all. While these requirements only have the child’s best interest in mind, families in some communities view a social worker and their rules as an outsider meddling in family affairs.

To address this, states should consider ways to make their approach to kinship care less adversarial. Efforts could be made to outreach to the family before the child needs to be removed from home as well as eliminate any non-necessary legal procedures.

Increase Benefits of State Involvement in Kinship Care

When a family member makes the decision to become a kinship guardian, they are faced with only one option in order to receive support and services, and that is to become a licensed foster parent. If they forgo the formal process, they may also forgo the level of support that comes with being IV-E eligible since not all states provide monthly support or services to kinship placements. This reality often results in children remaining in less than ideal settings, because family members do not see any benefit to getting involved in the system.

The current system too often fails to recognize that that kin are looking for more than financial support. They are equally in need of other types of supports which allow the
household to function efficiently, whether that is funding child care for a grandmother or funding a bus card for a teenager in high school. Kinship care is not an exact science and one family's needs may differ greatly from those of another family. If federal policymakers want to do more to encourage kinship care, they must not only reduce the burdens associated with participating in the state child welfare system but also increase the benefits associated with such participation.

**Challenges of Promoting Kinship as a Permanency Plan**

There are several reasons why promoting kinship has proven to be a difficult challenge. First, reducing the screening and licensing process carries with it the risk that kin will somehow compromise the safety or well being of the child. It is important that we not shift the pendulum toward a system that just place kids with kin and assume that this is a stable placement. On the contrary, we want to make sure that kids are safe and supported while at the same time focusing on relative placements.

It is also a lot easier to keep the system the way it is, which is more of a “one size fits all” system. Administering a system with a wide variety of permanency options, of which kinship is one, would require caseworks to develop an even more specialized permanency plan and put in place processes which take into account the specific needs of each family individually. Too often we assume that what is needed for one child is what every child needs. When looking at kinship care, we see a big difference between every family's situations. Adding this burden to an already understaffed system, may seem impossible.

**Learning Lessons from Guardianship**

One of the major accomplishments of the Fostering Connections Act is that it provided for the first time federal reimbursement for guardianship. Before this became federal law, several states had already begun to approve and fund placements with guardians when adoption proved impossible. In fact, according to AFCARS, in FY 2008, 19,941 children left foster care through guardianship. Recent efforts by Congress to promote and support this permanency goal will undoubtedly lead to an even higher number in years to come. Federal policymakers should consider the lessons learned from recent efforts to recognize guardianship as an important permanency option and apply them to kinship.

**RECOMMENDATIONS**

To increase the likelihood that a child in foster care is placed in the home of a relative, federal policymakers should:

- **Provide federal financial support for kinship caregivers.** Similar to the Adoption Assistance Program, the federal government should establish a Kinship Assistance Program. This would recognize kinship care in federal funding by establishing kinship care support in the Title IV-B Social Security Act.
• **Implement a screening process for kinship care that allows a balance between the safety of the child and the privacy of the family member.** We want to be able to put children in safe placements, ideally with relatives, but we do not want to put them in a place that compromises their own safety and health. As it stands now, many family members are apprehensive of becoming kinship care providers because of the burdensome foster care licensing procedure that is frequently seen as an invasion of privacy. By finding a balance between safety and privacy, this would encourage family members to become kinship care providers and it would also make sure that we do not have unsuitable family members taking care of children.

**MAKING SURE STATES ARE MAKING THE GRADE**

It’s no secret that the outcomes for youth in foster care are not in line with those envisioned by Congress when they passed laws like the Adoption and Safe Families Act or the John Chafee Independent Living Act. Research shows that youth who are emancipated from the foster care system are more likely to forgo higher education, lack access to health care, become homeless and be forced to rely on public support programs. One-third of foster care alumni report living below the poverty line; this is three times the national poverty rate (Fernandes, 2008).

Sadly, youth’s experience in care is often not that much better. The average time a youth spends in the foster care system is twenty-seven months. One out of every four youth in care will call the system home for more than three years. Nearly half of all foster children made available for adoption have been waiting over three years to find a permanent family to call their own. According to national estimates, youth who are in foster care for more than a year, experience three or more placements. (Children’s Bureau of the US Department of Health and Human Services. Child welfare outcomes 2002-2005: Report to Congress. Washington, DC).

Motivated to reverse the trends described above, in 1994 Congress directed the U.S. Department of Health and Human Services (HHS) to implement what has since become known as “the Child and Family Services Review (CFSR).” The purpose of the CFSR is to establish policies and positive outcome goals for child safety, permanency, and well being as well as state compliance with federal and child welfare policies. To be considered compliant with federal child welfare policy, a state must achieve substantial conformity with seven outcome measures and demonstrate that seven specific systems are in operation. To judge this, HHS relies on 45 different items – or performance indicators – which are associated with the seven outcomes and the seven systems described above.

For all intents and purposes, the CFSR is the backbone of the federal government’s efforts to hold states accountable and are the primary means to determine whether or not states are doing what is necessary to ensure that positive outcomes are achieved for the
children and families served by state child welfare programs. There is no doubt that states need to be held more accountable for serving the best interests of youth in foster care and their families. The question is whether the CFSR system as it is now is a good basis for holding states accountable. Below is a discussion of some of the flaws in the current CFSR process as well as some alternative thoughts on how the federal government might introduce greater accountability for performance into the foster care system.

**The CFSR Process**

![Graph showing the results of the CFSR process](image)

Child and Family Services Reviews are in essence based on two things: data from statewide self assessments and an on-site review conducted by a team of federal and state members. In assessing performance, HHS relies on two sources the National Child Abuse and Neglect Data System (NCANDS) and Adoption and Foster Care Analysis and Reporting System (AFCARS). These two data systems are used to calculate the national standards for key performance indicators against which all states are measured. The findings from the statewide assessments and the onsite reviews are then assessed to identify weaknesses and strengths that are then used to create a Program Improvement Plan (PIP).

While any process that tries to measure a state’s performance in child welfare is worthwhile, there are many flaws within the current system that need to be addressed for
it to become the accountability system it claims to be. First, a large portion of the data reported by states on their performance and used to assess performance on national standards (AFCARS and NCANDS) is developed by the state and is therefore heavily reliant on how states interpret the reporting requirements. What this means is that the very system that is being judged is also in charge of reporting the data by which judgment is to be levied. In 2001, the National Working Group to Improve Child Welfare Data (NWG) surveyed all 50 states and DC to learn how they calculated the AFCARS data element for the number of placement settings children experienced during a removal episode. What they found was that 59% of states incorrectly included hospitalization for medical treatment in their placement count, while 33% incorrectly excluded detentions. In addition, 29% incorrectly included respite care, 25% incorrectly included runaways, and 16% incorrectly included trial home visits.

A related data problem is that AFCARS was designed to be a reporting system, not a tracking system. It uses the same point-in-time collection procedures used in census taking and polling. In 2004, the Pew Commission on Children and Foster Care recommended that the CFSR make use of longitudinal data to produce more complete and accurate assessments of state performance in child welfare service delivery. This would allow the federal government to better track state performance across more than one fiscal year. Researchers have also pointed out that the fact that AFCARS focus on children exiting care means the overall likelihood of a child being adopted or reunited with family is not being measured.

Finally, it is important to note that these assessments and reviews are being made on the basis of an extremely small sample of cases per state. For instance, the Administration of Children and Families just recently reported the outcomes of the second round of CFSR performance reviews for the 32 states reviewed in 2007 and 2008. The assessments of all 32 states were made based on the review of 2,069 cases, 1,279 of which were foster care cases. To give a better sense of just how small this sample group can get, during the first round of CFSR, the cases of only 25 of the 80,000 children in California’s foster care system were studied in determining the state’s compliance with federal permanency requirements.

**Performance Indicators**

As was stated above, the CFSR process is structured around determining a state’s performance on 7 outcomes, 7 systems and 45 key indicators. If this is to be the central component of the federal government’s accountability efforts then it is important that these outcome goals and performance indicators measure indicators that have a direct impact on the lives of the youth in care. A review of the current indicators casts doubt on whether or not that is the case. For instance, the following chart outlines the five measures related to foster and adoptive parent licensing, recruitment and retention.
<table>
<thead>
<tr>
<th>Core Question</th>
<th>States Receiving Rating of Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td>To what extent has the state put in place a process for ensuring the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children needing foster and adoptive homes?</td>
<td>21</td>
</tr>
<tr>
<td>To what extent are foster care standards applied to all licensed or approved foster family homes or child care institutions receiving Title IV-E of IV-B funds?</td>
<td>43</td>
</tr>
<tr>
<td>How effective does the state recruit and use families who live in other jurisdictions to facilitate timely adoptive or permanency placements for waiting children?</td>
<td>47</td>
</tr>
<tr>
<td>Does the state conduct criminal background clearances on prospective foster and adoptive parents before licensing or approving them to care for children?</td>
<td>50</td>
</tr>
<tr>
<td>To what extent has the state implemented licensing or approval standards for foster family homes and child care institutions that ensure the safety and health of children in foster care?</td>
<td>51</td>
</tr>
</tbody>
</table>

Given the importance of foster and adoptive parent recruitment to the care of children in foster care, these questions seem overly basic and do not seem to get at core quality questions such as “To what extent has the state developed a system for recruiting high quality foster parents?” or “To what extent has the state made efforts to retain quality foster parents for more than a year?”

**Program Improvement Plans (PIP)**

A PIP allows states the opportunity to address each outcome and systemic factor not found in substantial conformity to federal criteria. As part of the CFSR process, the Children’s Bureau provides states with technical assistance and monitors implementation of individual states PIPs. The goal of these plans is to provide a road map toward substantial compliance for failing states to follow. The experience to date has been that the process for developing and implementing these plans has not been without its challenges. First, according to the GAO, States’ interpretation of data gathering rules differ, and the majority of states efforts have been stymied by “uncertainty about how to develop their PIPs.” According to federal guidelines, state PIPs are due 90 days after the release of the final CFSR report, but in reality states have taken between 45 to 349 business days to complete these. GAO reports that the most common challenges affecting PIP implementation are insufficient funding, insufficient staff, insufficient time, and high caseloads.
### Penalties

Penalties are issued to states that after PIP implementation have not shown to have conformed substantially to federal regulation for outcomes and systemic factors. Financial penalties are to be withheld from a specific pool of child welfare funds that, as defined in the regulation, includes all Title IV-B funds to the state and 10% of the foster care administrative costs claimed by the state under Title IV-E for the specified penalty. Although no state proved to be in substantial conformity, penalties have not been issued to any state. A concern that has been raised about the current penalty structure is whether or not the amount of the penalty would exceed the cost of the state’s compliance with the national standards. If not, states may allow the penalty to be assessed and forgo the opportunity to make the prescribed changes to their policies and procedures.

### Lessons Learned From Federal Response in Other Areas of Public Concern

Until the early 1970s, most states voluntarily set their drinking age at 21. As a response to the Vietnam War, 29 states began lowering their drinking age to more closely align with the newly reduced military enlistment and voting age. In such states there was no uniformity in age limits—drinking ages varied from 18 to 20 and sometimes even varied based on the type of alcohol being consumed (e.g. 18 for beer, 20 for liquor). The decrease in the drinking age brought about an increase in alcohol traffic fatalities and injuries. So much so that, by 1983, 16 states voluntarily raised their drinking age back to 21—a move that brought about an immediate decrease in drinking and driving traffic fatalities incidents.

Some states, however, kept a lower drinking age. This created a patchwork of states with varied drinking ages that led to what was known as “blood borders”. They were called blood borders because teens would drive across state lines, drink and then drive back home across state lines killing and injuring themselves and others. In response, in 1984, Congress passed and President Reagan signed into law the Uniform Drinking Age Act mandating all states to adopt 21 as the legal drinking age within five years. Under the new law, if states refused to increase their drinking age to 21 they stood to lose 10% of their annual federal highway funds.

In 2001, concerned by continually failing test scores, Congress passed the No Child Left Behind Act. Under its provisions, states must develop statewide accountability plans that ensure that each and every school in the state is making annual yearly progress (AYP) toward improving student performance. If a school fails to meet AYP, they are subject to a series of targeted interventions including things such as school transfer and system restructure. The law also authorizes the federal and state governments to use a series of financial sanctions and awards to encourage needed reform.

While both approaches differ, they have some common lessons to teach to those who would like to see greater accountability in child welfare. First, in both cases, the public issues addressed were areas in which the general public could see the consequences
of failure. In the case of drunk driving, more people would be killed on the road and in the case of public education, America might lose its competitive edge in the world economy, States would be less likely to attract future residents or businesses, and business stood to lose a qualified workforce for the future.

Secondly, these laws depend on the use of fiscal sanctions in amounts or in areas of great value to States. In the case of the Uniform Drinking Age Act, states would do anything rather than risk a significant portion of a funding stream that is of vital importance to most state budgets.

RECOMMENDATIONS

In conclusion, more can and should be done to hold states accountable for the outcomes of youth entrusted to their care. To address this issue, federal policymakers should:

- Direct the National Academy of Sciences to study and make recommendations on what outcome measures and performance indicators would better promote positive outcomes for youth in foster care and their families. (As recommended by Pew Commission).

- Direct HHS to convene an ongoing advisory panel of data experts to periodically review the CFSR process and make sure that its measures are both timely and appropriate.

- Move away from the current point in time data system which measures exits from foster care and toward a longitudinal survey of youth entering care.

- Increase the financial penalties for noncompliance and take them from a source of funds that matters more to overall state budget (i.e. Medicaid, TANF)

- Consider reducing the federal matching rate for Title IV-E during periods of non-compliance with federal standards.

- Create an incentive fund for states and allow only those states that are in substantial compliance to be eligible to earn bonus payments.
JOHN CHAFFEE FOSTER CARE INDEPENDENCE ACT OF 1999
The John Chafee Foster Care Independence Act of 1999 was passed to address the needs of the almost 30,000 youth each year who “age out” of foster care without having the promise of a permanent family fulfilled. Contrary to popular belief, “aging out” does not happen on accident. To the contrary, it the planned permanency goal for almost 30,000 of our Nation’s children and youth (AFCARS, 2008). Outcomes of youth who “age out” of foster care indicate that the independent living program, as it is currently structured, is failing to meet its goal of providing youth with the financial, emotional, and social support systems needed throughout their young adult years and for the rest of their lives. As child welfare advocates continue to push for reform to this landmark legislation, we must also ask ourselves, will any government program be able to give these young men and women the love and support they need. Maybe, as Nicole Marchman, 2010 Foster Youth Intern states the “problem is independent living program is not a permanency option, it is merely a government service.”

The stated purpose of the Chafee Foster Care Independence Act of 1999 was “to provide states with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency” (Major Federal Legislation Concerned with Child Protection, Child Welfare, and Adoption, 2009). Along with other major provisions, this law requires states to expand the population of youth who are eligible to receive independent living services to include youth ages 18, 19, and 20 who had aged out of care (Fernandez, 2006). It also doubled federal funding available for independent living services to older youth from $70 million to $140 million (Fostering Connections Resource Center).

Chafee Independent Living funding can be used to cover education assistance, vocational training, mentoring, preventive health activities, and counseling. Up to $60 million of these funds are made specifically available for states to provide education and training vouchers (ETV) for eligible current and former foster youth (Fernandes, 2006). The vouchers worth up to $5,000 per year are available to each eligible current and former foster youth and youth adopted from care after their 16th birthday (Fernandes, 2006). Youth can receive ETVs until age 23, but only if the youth was receiving vouchers at age 21.

Over the past decade, the number of youth emancipating from foster care has increased by about 30%. The most recent data available from AFCARS shows that in FY2008, 29,516 youth emancipated from care, versus 18,964 in 1999 (CRS, based on AFCARS Report #12 and #16). What makes this increase all the more significant about is that the overall number of children in care has significantly decreased during this same time period. In 2008, there were 463,000 children in care, compared to 1999 when there were 567,000 children in care (AFCARS, 2009). Some child advocates argue that the Chafee Foster Care Independence Act contributed to this increase in youth aging out in that it provided additional funding to help youth age out of care, thereby providing social workers
with a perverse financial incentive to encourage youth to age out of care instead of exiting through adoption or reunification when possible.

There are a number of studies and reports that examine the outcomes of youth aging out of the foster care system. These reports all show the same poor outcomes. A 2010 report by the Jim Casey Youth Opportunities Initiative supports this in saying, “young people who age out of foster care often suffer academically, have poor secondary school outcomes, face challenges in attending and completing college, are at risk of early pregnancy, and are at risk of arrest and incarceration. Studies also indicate that youth of color are disproportionately represented in this population of young people” Data from this study shows that:

- By age 24, only 8% of women and 5% of men who had aged out of care had obtained a bachelor's degree.
- At age 19, 39% of youth who aged out of care were employed. At age 23 or 24, only 50% were employed.
- The mean earning for former foster youth in this study ages 18-24 was $12,064.
- 17% of women and 61% of men who aged out of care have at least one of their own children who they are not raising.
- 39% of women and 64% of men who aged out of foster care had been arrested since age 18; and 18% of women and 43% of men had been convicted.

**PUTTING THE $ IN SCHOLARSHIP**

The John Chafee Independent Living Education and Training Voucher program, popularly known as the ETV, provides vouchers worth up to $5,000 to each youth annually for education and training. This includes youth who have aged out of foster care and those who are currently in foster care and attend postsecondary education as defined by the Higher Education Act of 1965 (Fernandes, 2006). Only youth receiving a voucher at age 21 may continue to participate in the voucher program until age 23. There is no minimum age at which states must start using Chafee funds.

While the Chafee Independent Living Act, authorized Congress to provide $60 million annually to fund these vouchers (Fernandes, 2006), since FY 2003 states have received an average of $44.5 million to provide ETVs (Fernandes, 2006). Currently, ETVs are only funded at $45 million. In order for states to receive general Chafee funds and Chafee voucher funds, the states must provide a 20% match (Fernandes, 2006). States are given two fiscal years to spend general Chafee and ETV funds.
Grant Amount and Number of Youth Participating

ETVs are helping to reduce part of the financial barrier that prevent foster youth from obtaining higher education, however, improvements are still needed in order to effectively serve this vulnerable population. Research shows that a large number of youth eligible are not receiving support from the ETV program. Casey Family Programs examined how six states were using ETV funds and found that on average, states are serving far below the number of youth eligible for these grants. The outcomes of this survey are depicted in the chart below.

Below are some of the many reasons why foster youth are not being fully served by this important federal program as well as recommendations on how the program might overcome these shortcomings.

Age-Limit

Youth in foster care start educationally disadvantaged due to factors such as higher rates of absenteeism and disciplinary referrals, higher likelihood to perform below grade level, approximately twice as likely to have been held back in school, higher frequency in school change resulting in educational disruption, and their families of origin on average have lower educational achievements (Altshuler, 1997). The age-limit attached to ETVs does not account for these risk factors and the reality that is takes foster youth longer to complete secondary school and therefore also attend college later in life.

This problem is only made worse by the increased requirements of some types of degrees and the overall cost of attending college, both of which have led to students taking longer to obtain a degree. According to the College Board, currently, the average length of
time it takes a person to obtain their Bachelor’s degree is 6 years (Clark, 2007). Even if a foster youth began a 4-year college full-time immediately upon graduation from high school, the College Board statistics show that such a student might not graduate until age 24. However, Chafee ETVs can only be received through age 22 (Fernandes, 2006). Students who attend college on a part-time basis face similar issues with the age limit.

Also important to consider is that foster youth do not graduate high school and look to begin college with the same financial, emotional, and social support as their peers who did not age out of foster care. Therefore, foster youth are often forced to work before beginning college in order to cover all of the costs of attending college, such as tuition, housing, text books and school fees, food, car expenses, bills, etc. Under current law, if a student is not receiving ETVs at age 21, they are not eligible to ever receive ETVs. This is yet another reason foster youth lose out on this benefit.

Of the foster youth who do graduate from high school, many youth will choose to go to a community college first for the following reasons: 1) they don’t have the GPA to get into a 4 year school because of the educational barriers experience growing up in care, and 2) it is cheaper to attend a community college (Casey Family Programs, 2010). These students face many of the same issues with the age limit and availability of funds.

**Funding**

"Among the kids I’m seeing, there's despair and discouragement," said Michael McPartlin, special services manager at City College of San Francisco. "This was presented to them by their social workers as a stable program. Instead, they aren't getting their grants on time and they can't get answers about whether or not the money will be available to them next year." (SFC 2010).

The $5,000 annual grant to youth has not been increased since the original passage of Chafee. As a result, it has not kept up with the rise in the cost of attending college. Tuition alone at most schools is more than $5,000 per year.

![Average Cost of College](source: Education-Portal.com)
Another problem is that not only is $5,000 an inadequate amount to cover expenses, but foster youth on average do not receive the full $5,000 annual grant. Casey Family Programs reviewed how six states were using their ETV funds. Only four states were able to provide an average ETV grant amount. The study found that on average, students only receive on average $3,675 per year (Nixon & Jones, 2007). Part of the reason for this is that the program’s authorized level of funding, even if fully funded, is not sufficient to provide the full $5,000 amount to each of 29,000 youth aging out of care. Based on current AFCARS data, Congress would have to increase the authorized funding from level from $60 million a year to $145 million a year.

Finally, the Chafee Foster Care Independence Act requires states to put up a match in order to receive funds. During state budget crises, which of lately has been many, states are unable to meet this requirement and the funding is then not available to youth in that state. Making matters worse, this can happen at any time in the fiscal or school year, leaving students without the funds needed to complete their course of study.

**Administration of Grants**

States continue to return funding for ETVs to the Federal Treasury. In FY 2007, states received $45.5 million in funds for vouchers. Collectively, 16 states returned $1.5 million (Youth Transitioning from Foster Care, 2009). Another administrative problem is that when states are facing a financial crisis, ETV grants are not dispersed to youth.

"On the first day of school I went into the financial aid office to pick up my check only to find out that the state budget hasn’t been passed they are not sure when it will. Because of this, I could not receive my Chafee grant and therefore did not have money to pay for tuition, books and other school supplies, along with dorm fees or housing deposits, parking passes,
and even the most basic needs of food and clothing. I even know of youth who have lost their funding mid-year and were unable to complete their semester,” Serena Vidaure, 2010 Foster Youth Intern shares.

RECOMMENDATIONS:

To improve the ETV program, federal policymakers should:

- Use the fact that the Patient Protection and Portability Act allows former foster youth to receive Medicaid until age 26 as an example and amend the Chafee Foster Care Independence Act to allow students to receive ETV funds until age 26.

- Amend the Promoting Safe and Stable Families Amendments of 2001 to increase the ETV grant amount to each youth per year from $5,000 to $10,000.

- Fully fund the $60 million authorized for the ETV program.

- Create a Chafee Contingency Fund similar to the TANF Contingency Fund to ensure for ETV funding is not cut during state budget crisis.

RACE MATTERS

There is an overrepresentation of minorities in foster care. Despite this well documented reality, the foster care system continues to apply a “one size fits all approach” which ignores the individual needs of youth in care and in particular the sometimes unique needs of minority youth and their families. The current approach has led a higher rate of minorities entering care, a higher rate of minority youth awaiting adoption or guardianship, and a high incidence of negative outcomes among minority youth who age out.

Entry into Foster Care

Statistics show that minority children and youth enter foster care at a higher rate than their white counterparts. When compared to the general public, the racial disparity among entries into care is even more evident.
Factors that contribute to the higher rate of minority children entering into foster care include:

- Minorities have higher rates of poverty, domestic violence, mental illness, and parental incarceration which leave these children at a higher risk for entry in foster care (African American Children in Foster Care GAO, 2007).

- Minorities have higher rates of abuse and neglect reported to Child Protective Services. One study found that African-American women were ten times more likely to be reported to social services even though there is not a higher rate of abuse (Perspectives from Child Welfare, 2003).

- African-American children are more likely to be placed in kinship care. Reunification is less likely for children in kinship care, which leads to longer lengths of stay than non-minority children (Perspectives from Child Welfare, 2003).

- Under-representation of minority social workers and judges who make decisions that ultimately determine the removal of children from their biological family. This disproportion of workers to minority children allows for a greater lack of cultural
awareness of minority clients served. African-Americans have difference cultural norms when considering discipline (Perspectives from Child Welfare, 2003).

- African American parents frequently lack important information about how the child welfare system works, the financial resources to navigate the system, including hiring an attorney and the confidence to advocate from themselves and their children (Perspectives from the Child Welfare Community, 2003).

![Racial Makeup of Social Workers in the U.S.](image)

Source: Social Work Congress, Final Congress Student Report

Lower Adoption Rates

Minorities have lower rates of adoption out of foster care (AFCARS, 2008). Factors that contribute to the lower rate of minority youth being adopted include:

- **Public Misperceptions of older and minority youth**: In 2007, the Dave Thomas Foundation for Adoption conducted a survey on public attitudes toward foster adoption. In it, they found that nearly half (45%) of all Americans thought that youth entered foster care because of delinquency. While in this survey this was the belief about all youth, other research indicates that the general public also correlates race with propensity for crime.

- Minorities more commonly have large sibling groups in care, higher rates of medical needs, and come into care at an older age (GAO, 2007).

To reduce disproportional rates of minority children in foster care, federal policymakers should:

- Implement cultural sensitivity training to educate social workers, judges, and other professionals who make decisions that impact children entering and remaining in foster care. This training needs to incorporate information about cultural norms and preexisting risk factors for minority populations.
• Provide federal incentives for child welfare agencies that recruit minority social workers in order to remove the racial disproportion among social workers in child welfare.

• Strengthen resources for guardianship since minority children are placed in this setting at a higher rate. Consider instituting a guardianship tax credit of $5,000.

• Review the Multi-Ethnic Placement Act to ensure states interpretation of the provisions for placement of minorities is not having a negative effect on the number of minority children adopted out of foster care.

• Implement and establish an evidence-based cultural awareness and certificate program that would require continuing education credits on annual bases. Include courses specific to the child they are caring for.

Outcomes for Minority Youth Emancipating from Care

Statistics show that minority youth are faring worse than their white counterparts. The child welfare system often fails to focus on establishing or helping youth recognize ways to break the family cycle of incarceration, unemployment, unsuccessful education completion, alcohol and drug addiction, and domestic violence.
For minorities who aged out of foster care, 36% of African American men are employed and 41% of African American women are working compared to 60% of their white counterparts of men and women (Chapin Hall, 2008).

Across the country, an estimated 23% of all African American families live below the poverty line, versus 6% for white families (GAO, 2007).

To increase positive outcomes for minority youth emancipating from foster care, federal policymakers should:

- **Provide grants to states to fund partnerships between child welfare or community agencies and organizations that focus on minority populations in education and employment.** These partnerships would provide additional services and programs to minority youth to encourage educational and career attainment.

- **Create a database that is administered by the Administration for Child and Families that included state-by-state resources for youth aging out of care.** This database would have a specific section of that target minorities populations by including scholarship information and programs for minorities.

- **Provide an incentive for Historically Black Colleges and Universities, the National Association for Advancement of Colored People, the Federal TRIO Programs to develop an independent living program curriculum for minorities in foster care system.** These institutions would offer services such as mentoring and tutoring to encourage higher career attainment for minorities. This would allow minorities the chance to interact with professors and other professionals other than their social worker.
• Encourage social workers to promote minority youth to pursue higher education and job training at at least the same rate as their white peers. Minorities in general are expected to have lower outcomes than non-minorities in the general public. Because of this misconception, social workers may be biased when determining which youth on their caseload should seek higher education and job training through ETVs.

• Require states to use a minimum percentage of Chafee funds and ETVs on minority youth.

• Encourage states to use Independent Living Programs that provide incentives for youth instead of punishment.

Escaping Labels
by Nicole Marchman

Equality
by Maya Angelou

We declare you see me dimly
Through a glass which will not shine,
Though I stand before you boldly,
trim in rank and making time.
You do own to hear me faintly
as a whisper out of range,
while my drums beat out the message
and the rhythms never change.
Equality, and I will be free.
Equality, and I will be free.

We have lived a painful history,
Yes, my drums are beating nightly,
and the rhythms never change.
Equality, and I will be free.

I realize that the net result of my above recommendations would be to add yet another label to a foster care system that is already overfilled with them. While labels are a necessary part of a system that relies so heavily on them for the purposes of eligibility, reporting and payment rates, they can also leave youth who spend significant time in foster care with the idea that their identity is nothing more than the sum of their labels. That is the way I felt sometimes.
I remember going into foster care system at 11 and being asked, “Do you consider yourself white or black”? I responded “I’m a zebra”. My social worker was shocked and asked for an explanation so I told her, “Because my classmates tell me all the time how I have black and white stripes”. She explained this was because of my skin complexion but that technically speaking I was African American. So, from that very moment on, I have always considered myself to be African American.

During my high school years, I was told that I was “biracial” by one of my teachers. I felt like my identity was stolen. How could I be surrounded with social workers and never have one sit me down to share this important part of my family background with me? After aging out of foster care, I finally met my grandmother and learned she was full Native American. So from then on, I have been “multiracial.”

After a lifetime in care, my labels were soon joined by statistics. Regrettably, I fell into the estimated odds of not completing high school or getting my GED. There were multiple reasons why I dropped out of high school, such as lack of support and being placed into special education classes. About two years after dropping out of school, I enrolled into a GED program and eventually received my GED by the age of 23. For the first time, I had a “label” otherwise known as a degree that I had chosen for myself rather than being given by others. I am also proud to say I have achieved two more labels since then, an Associate in the Arts and Bachelors in Social Work.

I would like to use all my labels to help move the system away from where it is today toward one where youth, and in particular minority youth, have identities instead of labels.
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GHR Foundation
ABOUT CCAI

Did you know that until 1975, most States discouraged or directly prohibited foster parents from being considered as potential adoptive parents to children they fostered? It’s true. For the most part, these restrictions existed to protect against foster parents becoming too attached to children who may ultimately be returned to their biological families. Thanks to the educational efforts of advocates, policymakers soon learned that these well meaning laws and policies were, in effect, hindering children from finding a safe, loving and permanent home of their own. So, instead they put in place laws, policies and programs aimed at promoting foster adoption and today 67% of children adopted out of foster care are adopted by their foster parents.

This is just one of many examples of how law and policy can serve as a barrier to children realizing their basic right to a family. Realizing that federal policymakers had the power to overcome such barriers, in 2001, advocates for the world’s orphaned and foster youth founded the Congressional Coalition on Adoption Institute (CCAI). In founding CCAI, these advocates sought to match Members of the Congressional Coalition on Adoption’s commitment to finding a home for every child with the information and resources needed to make that dream a reality. Since that time, CCAI has strived to be an objective resource for information critical to advancing the efforts of federal policymakers on behalf of children. Through its five core programs, CCAI’s goal is to educate Members of Congress about the need for reform; coordinate Congressional and community efforts to bring about change and facilitate opportunities for communication and awareness.

Mission Statement

The Congressional Coalition on Adoption Institute is a nonprofit, nonpartisan organization dedicated to raising awareness about the millions of children around the world in need of permanent, safe, and loving homes and to eliminating the barriers that hinder these children from realizing their basic right of a family.

For more information, visit www.ccainstitute.org.
ABOUT THE AUTHORS

Name: Nicole Marchman
Hometown: Clearwater, FL
Age: 28
School: University of South Florida
Major: Social Work
Years in Care: 9
Status: Aged Out

Name: Sam Martin
Hometown: Seattle, WA
Age: 20
School: University of Washington, Seattle
Major: Political Science
Years in Care: 18
Status: Emancipated

Name: Wendy Ruiz
Hometown: Los Angeles
Age: 24
School: Los Angeles City College
Major: Political Science
Years in Care: 3
Status: Aged Out
Name: LaTasha Hayes
Hometown: Hollister, CA
Age: 21
School: California State University, Stanislaus
Major: Criminal Justice
Years in Care: 2
Status: Aged Out

Name: Victor Horton
Hometown: Pulaski, VA
Age: 23
School: Virginia State University, Petersburg
Major: Business Administration
Years in Care: 18
Status: Aged Out

Name: Joshua Conner
Hometown: Nashville, TN
Age: 23
School: Belmont University
Major: Organizational and Corporate Communication
Years in Care: 3
Status: Aged Out, Adopted at 22
Name: Serena Vidaure
Hometown: Turlock, CA
Age: 22
School: California State University, Stanislaus
Major: Criminal Justice
Years in Care: 7
Status: Aged Out

Name: Jeremy Long
Hometown: Denver, CO
Age: 22
School: University of Northern Colorado, Greeley
Major: Communication
Years in Care: 5
Status: Aged Out, Currently in the Adoption Process

Name: Markus McQueen
Age: 26
Hometown: Los Angeles, CA
School: Southwestern Law School
Years in Care: 16
Status: Aged Out