

file foster care

Safeguarding Foster Children's Rights to Health Services

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The Permanent Judicial Commission on Justice for Children***

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Federal and New York State law mandate the provision of health services to foster children. Study after study, however, reveals that the vast majority of foster children have far more fragile health and are far less likely to receive health care that can improve their lives and life chances than other children. Children living in foster care have high rates of acute and chronic medical problems, developmental delays, educational difficulties, and behavioral and mental health problems. Ensuring foster children's right to services to enhance their healthy development can improve their functioning and prognoses. It also can improve their prospects for a stable and permanent home.

Connecting Healthy Development and Permanency

The demands of caring for children with health problems can create tremendous stress for caregivers. As a result, inattention to foster children's health needs not only jeopardizes their healthy development, but can disrupt stable placements and impede reunification and adoption efforts. The Permanent Judicial Commission on Justice for Children is working to highlight the connection between foster children's healthy development and permanency and the role of the courts in safeguarding foster children's right to services that can address or ameliorate their health problems.

The Permanent Judicial Commission on Justice for Children was established in 1988 to address the problems of children in New York State whose lives are touched by the court system. The Commission is co-chaired by Chief Judge Judith S. Kaye and

Professor Ellen Schall of New York University's Wagner Graduate School of Public service and includes judges, legislators, state and local officials, and child advocates. As the nation's only children's commission based in the judiciary, the Commission was instrumental in the passage of New York's Early Intervention Laws of 1992 and 1993, established the nation's first statewide system of Children's Centers in the courts, and is spearheading efforts to reform the Family Court's handling of foster care cases. As part of the latter initiative, the Commission's research found that foster children had serious, unmet health needs that were seldom the focus of any entity in the child welfare or court system. In the Fall of 1997, the Commission formed a Health Care for Foster Children Working Group to ensure foster children's healthy development. A major product of the Commission's initiative is the upcoming publication of a booklet, *"Ensuring the Healthy Development of Foster Children: A Guide for Judges, Advocates and Child Welfare Professionals,"* to assist court actors in identifying foster children's health needs and gaps in services. The Working Group envisions the booklet to be one part of a strategy to insure that at least one person involved in the court process ask questions about a foster child's health and highlight the connection between a child's healthy development and his or her prospects for permanency.

The Health Profile of Foster Children

Children living in foster care have multi-layered health needs that present challenges for caregivers, health care providers and advocates. First, foster children require well-child health care, immunizations and the treatment of acute childhood illnesses. Second, foster children have health problems associated with poverty--low birthweight, increased risk of lead exposure, malnutrition. Finally, foster children have

further health risks specifically linked to parental neglect, maternal substance abuse, physical or sexual abuse and parental mental illness. Foster children are more likely than other children to have histories of maternal substance abuse, abuse and neglect, parental mental illness and multiple caregivers. While at high risk for health problems, foster children too often lack the most fundamental resource for ensuring healthy development-- a stable, lasting relationship with a caring adult who can observe their daily development over time, advocate on their behalf and provide consent for evaluation and services.

The nationwide statistics paint a picture that cries out for a response: ²

- Approximately 80 percent of foster children have at least one chronic medical condition, with nearly one-quarter of these children having three or more chronic problems.³
- Numerous studies document the prevalence of serious respiratory illness among foster children. One study of foster children from Oakland, CA, revealed that 16 percent had asthma -- about three times the national average for asthma.⁴
- Many studies document widespread growth retardation in infants and toddlers in foster care.⁵ One study documented growth problems among foster children that were twice the expected rate found among the general pediatric population.⁶ Another study found that three times the expected number of foster children younger than three in Baltimore were at or below the fifth percentile for weight and head circumference and more than five times the expected number were at or below the fifth percentile for weight.⁷
- Research reveals that nearly 80 percent of foster children are at-risk for a wide range physical and developmental health problems related to prenatal exposure to maternal substance abuse.⁸
- Foster children have high risk of exposure to HIV and tuberculosis.⁹
- Studies nationwide reveal that half of all foster children have substantial delays in cognition, speech and behavioral development, and some studies have found even higher numbers of foster children in need of early intervention services. A California study found that these developmental delays were magnified as the children aged and remained in care.¹⁰
- Foster children are often at a distinct developmental disadvantage at the point of birth. For example, nearly 40 percent of foster children seen at the Oakland, California

foster care clinic were born premature.¹¹ Studies nationwide document the prevalence of prenatal exposure to substance abuse and poor prenatal care among foster children.¹²

- Studies show that nearly half—perhaps even more—of all children in the child welfare system have mental health problems severe enough to warrant clinical intervention.¹³

The profile of New York State's foster children mirrors the national picture:

- A 1992 study by the New York State Department of Social Services (DSS) demonstrated that New York's foster children have serious physical and mental health problems. 73 percent of all New York foster children statewide and 84 percent of New York City foster children were placed due to serious risk to their health and safety. 51 percent of foster care case reports cite a problem with parental substance abuse and 19 percent reported alcohol abuse. 16 percent of the children placed were diagnosed with mental illness.¹⁴
- At Foster Care Pediatrics, a health clinic located in Rochester that serves approximately 80 percent of that county's foster children, 40 percent of the children have a chronic medical illness and 60 percent of those children under the age of five had a developmental delay requiring early intervention services.¹⁵
- At ENHANCE, a health clinic located in Syracuse that treats more than six hundred foster children annually, 60 percent of the children had developmental delays and 75 percent had immunization delays. Of preschool and school-age children, more than half demonstrated emotional and/or behavioral disturbances.¹⁶

And yet, research reveals that many foster children do not receive even basic health care once they are placed in foster care:

- In a study of young foster children in three urban centers--Los Angeles County, New York City and Philadelphia County-- the U.S. General Accounting Office (GAO) found that 12 percent of the children received no routine health care, 34 percent received no immunizations and 32 percent continued to have at least one unmet health need after placement. The GAO found that 78 percent of the children were at high risk for HIV, but only nine percent had been tested for the virus.¹⁷
- In New York State, the Department of Social Services reviewed 3,000 foster care case records and found that fewer than one percent contained all the legally required components of past medical history, only half documented the child's immunization status, more than half lacked medical consents, and only 65 percent of the children received an initial comprehensive medical examination within thirty days of placement as required under New York State law.¹⁸

- Studies reveal that very few foster children are identified as having developmental delays by caseworkers or caregivers. At the Center for the Vulnerable Child in Oakland, California, only one-third of the children were previously identified by caseworkers or foster parents as having delays even though assessments found that 84 percent had developmental or emotional problems.¹⁹
- Despite their level of need, less than one-third of children in the child-protective system nationwide receive mental health services.²⁰

Unfortunately, systemic barriers frequently impede the provision of basic health services to foster children.²¹ Health, child welfare, education and legal systems too often do not coordinate information about a particular foster child. High turnover among child welfare professionals and multiple placement changes can result in knowledge gaps about a child's health needs and inhibit consistent care by providers who are familiar with the child. Child welfare professionals and court actors too often receive minimal training on children's health and development and its connection to permanency. Advocates who are knowledgeable about foster children's health issues are often frustrated by the sheer numbers and complexity of foster care caseloads and the scarcity of resources to meet their needs.

The Legal Requirement to Address Foster Children's Health Needs

Federal Laws

The mandate to provide medical services to foster children is clear under federal law. All children under the age of 21 enrolled in Medicaid are entitled under federal law to receive Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services.²² In many states, including New York, all foster children are eligible for Medicaid.²³ EPSDT is a comprehensive benefits package that requires medical, vision, hearing and dental screens to be performed at distinct intervals that meet current standards of pediatric and adolescent medical and dental care. The medical screen must include at

least five components: a comprehensive health and developmental history assessing both physical and mental health; a comprehensive unclothed physical exam; immunizations; laboratory tests including testing for high-risk exposure to lead; and health education.²⁴ In addition, EPSDT requires state Medicaid agencies to assure the provision of necessary treatment for both physical and mental health conditions to the extent required by the needs of an individual child.²⁵ In 1989, Congress amended the EPSDT statute to include broad language enabling states to finance through Medicaid an array of services that might otherwise be ineligible for Medicaid reimbursement including early intervention and developmental screening.²⁶ Federal courts have upheld the right to EPSDT services for children in out-of-home placement.²⁷

Under the child welfare provisions of the Social Security Act (Title IV-B), states must submit plans to the federal government assuring pre-placement preventative and reunification services.²⁸ The provisions of that law, commonly known as the Adoption Assistance and Child Welfare Act, requires that the case plan designed for each child in foster care be “designed to achieve placement in the least restrictive (most family-like) setting available and in close proximity to the parent’s home, consistent with the best interests and special needs of the child” and must contain a description of the services offered and provided.²⁹ Federal regulations enumerate services that may be included: day care; crisis, individual and family counseling; and other services identified as “necessary and appropriate.”³⁰

The federal regulations further require fair hearings to be provided to parents, foster parents and children regarding either denial of services or the failure to deliver services promptly.³¹ The Department of Health and Human Services has determined that

the failure to offer or provide appropriate services or to act expeditiously on a request for a specific service may be appropriate fair hearing issues.³² The recently passed Adoption and Safe Families Act (ASFA) emphasizes the federal mandate to provide medical services as part of permanency planning.³³ Under ASFA, a foster child's "*health and safety*"[emphasis added] are "paramount concern[s]" in every child protective proceeding.³⁴

In addition to Medicaid and EPSDT, many other entitlement programs provide eligible foster children with health and social services to support their healthy development. Children from birth to age three who have a developmental delay or a condition with a high probability of resulting in developmental delay are eligible for early intervention services under Federal and State law.³⁵ Early Intervention provides an array of services including occupational, speech and physical therapy and special instruction for the child as well as family support services to enable parents to enhance their child's development. Children age three through five who have a disability in one or more domains – physical development, hearing and vision, learning, speech and language, social and emotional development, and self-help skills that affect their ability to learn – can receive special education and related services under the Federal Preschool Grants Program. Children older than age five may be evaluated for school-age special education services.

The federal regulations promulgated pursuant to the Individuals with Disabilities Education Act specifically states that foster children may be referred for Early Intervention and special education services by parents as well as health care and social services workers.³⁶ Since these programs are premised on active parent involvement,

they require parental consent for services. The law, however, provides a broad definition of “parent” that includes the birth or adoptive parent, a legal guardian or relative acting as a parent, or in some circumstances the foster parent with an “ongoing long-term parental relationship with the child.”³⁷ Where no parent as broadly defined under the regulations is willing or able to participate, the local school districts or local early intervention agency may appoint a surrogate parent for a foster child whose authority is limited to making educational or early intervention program services decisions for the child.³⁸ The law specifically excludes “an employee of the SEA (state education agency), the LEA (local education agency), or any other agency that is involved in the education or care of the child” from serving as a surrogate parent.³⁹ In addition to the Early Intervention and Preschool Special Education Programs, many foster children are eligible for other early childhood programs such as Head Start. Other social services programs, such as the Child Nutrition Act (WIC), can support an eligible foster child’s healthy development by providing nutritional supplements.

New York State Laws

All foster children in New York State are eligible for Medicaid. New York’s Child/Teen Health Plan (C/THP) incorporates the federal EPSDT provisions that mandate comprehensive and preventive diagnostic and treatment services to all children who receive Medicaid.⁴⁰ Other provisions of New York law further reinforce the right of foster children to receive health services:

- Social Services Law § 398 requires the local social services commissioner to “provide for expert mental and physical examinations of any such child whom he has reason to suspect of mental or physical disability or disease and pay for such examination from public funds” and to “provide necessary medical or surgical care in a suitable hospital.”

- New York State Social Services Law § 366 specifically mandates medical services to foster children. The law requires that medical assistance, or Medicaid, defined as “payment of part or all of the cost of care, services, and supplies which are necessary to prevent, diagnose, correct or cure conditions in the person that cause acute suffering, endanger life, or result in illness or infirmity” be provided to an otherwise eligible child under the age of 21 living away from his or her home.

Additionally, New York’s Child Welfare Reform Act requires that social services officials provide preventive services to avoid a child’s placement, to reunify a foster child with his or her family as quickly as possible, or to reduce the likelihood of reentry into foster care once a child has been discharged from such care.⁴¹ State DSS regulations enumerate specific preventative and reunification services and differentiate between mandated and optional services.⁴² Preventive services for children at risk for placement or for those in placement are mandated where there is a risk or impairment of the child’s *health* or safety [emphasis added].⁴³ Each social services district must provide case management, case planning and casework contacts as well as “core services” that can address a child’s health needs including day care, parent training, transportation, clinical services, crisis respite care for disabled or HIV-infected children.⁴⁴ Additionally, a district may offer family planning services, day services to children, intensive home-based family preservation services, and outreach activities.⁴⁵

New York State regulations further outline specific standards for medical services to foster children. Administrative directive 90-ADM-21 includes standards from the EPSDT program, but also requires a comprehensive medical examination within thirty days of placement.⁴⁶ This examination must include:

- “a comprehensive health and developmental history;
- a comprehensive unclothed physical examination;

- an assessment of the child's immunization status and the provision of immunizations as necessary;
- an appropriate vision assessment;
- an appropriate hearing assessment;
- laboratory tests as appropriate for specific age groups or because the child presents a history or symptoms indicating such tests are necessary;
- dental screening and/or referral; and
- observation for child abuse and maltreatment."⁴⁷

Under 90-ADM-120, local departments of social services and their contract agencies have specific obligations to ensure that foster children receive appropriate health care and that their caregivers receive assistance in accessing needed services:⁴⁸

- Obtain Medical Consent - Within ten calendar days of admission to foster care, agencies must request written authorization from the child's parent or guardian for the child's "medical or psychological assessment, examination, and treatment and for emergency medical or surgical care in case the parent or guardian can not be located at the time the care is necessary"
- Obtain the Child's Medical History - Request written authorizations from the child's parent or caregiver for "authorization for release of medical records from providers who have previously treated the child."
- Notify Caregivers of the Child's Right to Services - The local social services department must notify the child's caretakers in writing of the availability of Child/Teen Health Plan services within 60 days of a Medicaid-eligible child's entry into foster care.
- Provide Care Coordination - Agency staff must consult with health professionals and the child's foster parents regarding health services necessary to meet the child's needs, ensure that follow-up health care is provided as needed or recommended by the child's physician, assist foster parents in arranging and scheduling care and transportation to the initial and follow-up examinations, and record in the case record that the required medical examinations have been performed.

The Role of the Court in Ensuring Healthy Development for Foster Children

Under the recently passed Adoption and Safe Families Act (ASFA), family courts have broad responsibility for permanency planning that can include making orders for health services necessary to return children to their families or to enhance a child's prospects for permanency. In addition to ASFA, New York's Family Court Act provides Family Court judges with authority to order medical services and to order social services officials to provide or arrange these services for foster children.⁴⁹ All those involved in the court process – lawyers, CASAs, and child welfare workers—can assist judges by making information about a child's health needs available to the court as an integral component of permanency. Every court proceeding can be an opportunity for judges, lawyers, advocates and child welfare professionals to ask questions about a child's health and to spotlight the connection between healthy development and permanency.

The New York Family Court Act (FCA) vests the Family Court with the responsibility of ensuring the “physical, mental and emotional well-being” of the children within its jurisdiction.⁵⁰ FCA Section 251 authorizes Family Court to order health services for foster children:

- Family court can order medical evaluations and services for children within its jurisdiction to “help protect children from injury or mistreatment and to help safeguard their physical, mental and emotion well-being.”
- Family Court can order a child to be examined by a physician, psychiatrist or psychologist for medical, surgical, therapeutic, and hospital care or treatment.

Under the FCA Section 255, a judge also can order state and local officials to provide or arrange for services to ensure a foster child's healthy development. The court's legal authority ends when the action or proceeding terminates and the court loses jurisdiction over the parties.⁵¹

- Family Court can order any state, county, municipal, and in some cases, school district officer and employee, “to render such assistance and cooperation as shall be within his legal authority, as may be required, to further the objects of this act.”
- The Family Court may order another agency or institution to perform a reasonable act in regard to a child “who is or shall be under its care, treatment, supervision or custody.”
- The court can seek cooperation and use the “services of all societies or organizations, public or private, having for their object the protection or aid of children and families, including family counseling services, to the end that the court may be assisted in every reasonable way to give the children and families within its jurisdiction such care, protection and assistance as will best enhance their welfare.”

Section 1015-a of the Family Court Act clarifies the roles of Family Court and the Department of Social Services and describes the parameters of the court’s power and types of services that can be ordered.

- Family Court can order social services officials to provide or arrange for the provision of services and assistance to protect the child, rehabilitate the family and discharge the child from foster care.
- Courts can only order officials to provide those services outlined in the comprehensive annual services plan presently in effect.
- Under 1015-a, the court may require a social services official to make periodic progress reports to the court on the implementation of court-ordered services.

As stated in Section 1015-a of the Family Court Act, Family Court does not have unbridled discretion in ordering public officials to provide services to foster children and their families. The ordered services must be part of the current comprehensive services plan. Under Section § 255 a court only may order public officials to cooperate or provide assistance “within his (the public official’s) legal authority.” In addition, Section § 255 explicitly limits the Family’s Court authority to order assistance and cooperation from school districts. Courts have invoked these sections to develop a two-pronged test to determine how far the Family Court may go in ordering the assistance and cooperation of

service agencies: (1) the ordered act must be with the legal authority of the court and the agency and (2) the order must further the objectives of the Family Court Act.⁵² Although the courts have explicitly denied the Family Court's power to make orders that contravene or expand a public agency's legal authority, they have provided limited guidance regarding the court's authority to order services that extend beyond the needs of a particular foster child.⁵³

Role of Law Guardians

A law guardian can make applications pursuant to Family Court Act sections 255 and 1015-a for the court to order health evaluations and treatment for a foster child.⁵⁴ Because law guardians are statutorily required to help protect their client's interests and to help their clients express their wishes, law guardians must interview the child and conduct an independent investigation of the circumstances related to the allegations of abuse and neglect.⁵⁵ Whether the child received adequate health care and whether the child presently requires screening for health problems should be one part of the attorney's investigation. Information about the child's health and functioning can help law guardians review or develop a permanency plan for the child. If a law guardian learns that a foster child has or may be at-risk for health problems, the law guardian can ask the court to order health evaluations and services for the child.⁵⁶ The law guardian can argue that services to address a child's health needs are essential to the child's protection, the family's rehabilitation and the child's discharge from foster care.⁵⁷

Role of Other Court Actors

Court Appoint Special Advocates (CASA), social workers working in the court, Department of Social Services caseworkers and attorneys and attorneys representing parents also can ask basic questions about a child's health. They can assist the court in identifying a child's health needs and gaps in services and they also can provide information about resources to address the child's health problems and to enhance the capacity of biological and foster parents to care for the child. They also can incorporate services to promote a child's healthy development into the permanency plan, as a means to increase the child's prospects for reunification or adoption.

Conclusion

Federal and state law mandate that foster children receive services to enhance their healthy development and their prospects for permanency. Despite their rights to health care under the law, many foster children have compromised health and do not receive even basic health services to address their problems. The lack of services is alarming particularly in light of research revealing that children with disabilities are at a high risk of being abused or neglected and that stress created by the demands of caring for children with health problems can lead to family instability or dissolution.⁵⁸ Judges, advocates and child welfare professionals can reverse this grim forecast and strengthen families by safeguarding foster children's rights to health services.

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² Numerous authors describe the compromised health care of the nation's foster children: S.D. Blatt et al., *A Comprehensive, Multidisciplinary Approach to Providing Health Care for Children in Out-of-Home Care*, 76 CHILD WELFARE 331 (1997); S.D. Blatt & M. Simms, *Foster Care: Special Children, Special Needs*, 14 CONTEMPORARY PEDIATRICS 109 (1997); R. Chernoff et al., *Assessing the Health Status of Children Entering Foster Care*, 93 PEDIATRICS 594 (1994); N. Halfon et al., *Health Status of Children in Foster Care: The Experience of the Center for the Vulnerable Child*, 149 ARCH. PED. & ADOLESC. MED. 386 (1995); N. Halfon et al., *Mental Health service Utilization By Children in Foster Care in California*, 89 PEDIATRICS 1238 (1992); N. Halfon & L. Klee, *Health and Developmental Services for Children with Multiple Needs: The Child in Foster Care*, 9 YALE L. & POLICY REV. 71 (1991); N. Halfon & L. Klee,

Health Services for California's Foster Children: Current Practices and Policy Recommendations, 80 PEDIATRICS 183 (1987); N.J. Hochstadt et al., *The Medical and Psychosocial Needs of Children Entering Foster Care*, 11 CHILD ABUSE & NEGLECT 53 (1987); M.E.K. Moffat et al., *Health Care Delivery to Foster Children: A Study*, 10 HEALTH & SOC. WORK 129 (1985); Alvin A. Rosenfeld et al., *Foster Care: an update*, 36 J. AMER. ACAD. CHILD & ADOLESC. PSYCH. 448(1997); J. Silver, B. Amster & T. Haecker, eds., *YOUNG CHILDREN IN FOSTER CARE: A GUIDE FOR PROFESSIONALS* (Baltimore: Paul H. Brookes Publishing Co., 1999); J. Silver et al., *Starting Young: Improving the Health and Developmental Outcomes of Infants and Toddlers in the Child Welfare System*, in K. Barbell & L. Wright, eds., *FAMILY FOSTER CARE IN THE NEXT CENTURY*, 78 CHILD WELFARE 148, (Jan. -Feb. 1999); M.D. Simms & N. Halfon, *The Health Care Needs of Children in Foster Care: A Research Agenda*, 73 CHILD WELFARE 505 (1994); M. Szilagyi, *The Pediatrician and the Child in Foster Care*, 19 PEDIATRICS IN REVIEW 39 (February 1998); J. Takayama et al., *Relationship Between Reason for Placement and Medical Findings Among Children in Foster Care* 101 PEDIATRICS 201, 203-204 (1998); J. Takayama et al., *Children in Foster Care in the State of Washington: Health Care Utilizations and Expenditures* 271 J. AMER. MED. ASSOC. 1850 (1994).

³ Halfon, *Health Status of Children in Foster Care: The Experience of the Center for the Vulnerable Child*, *supra*.

⁴ *Id.*

⁵ Blatt & Simms, *Foster Care: Special Children, Special Needs*, *supra*; Chernoff, *supra*; Halfon, *Health Status of Children in Foster Care: The Experience of the Center for the Vulnerable Child*, *supra*; Wyatt et al., *Widespread Growth Retardation and Variable Growth Recognition in Foster Children in First Year After Initial Placement*, 151 ARCH. PED. ADOLESC. MED. 813 (1997).

⁶ J. Silver et al., *Starting Young: Improving the Health and Developmental Outcomes of Infants and Toddlers in the Child Welfare System*, *supra* note 2.

⁷ Chernoff et al., *Assessing the Health Status of Children Entering Foster Care*, *supra* note 2.

⁸ Halfon, *Health Status of Children in Foster Care: The Experience of the Center for the Vulnerable Child*, *supra* note 2; J. Silver et al., *Starting Young: Improving the Health and Developmental Outcomes of Infants and Toddlers in the Child Welfare System*, *supra* note 2; Szilagyi, *The Pediatrician and the Child in Foster Care*, *supra* note 2.

⁹ A. Rosenfeld et al., *Foster Care: an update*, *supra* note 2; H. Ruff et al., *Early Intervention in the Context of Foster Care*, 11 DEV. & BEHAVIORAL PED. 265 (1990)

¹⁰ Halfon, *Health Status of Children in Foster Care: The Experience of the Center for the Vulnerable Child*, *supra* note 2

¹¹ *Id.*

¹² Child Welfare League of America, *ALCOHOL AND OTHER DRUG SURVEY OF STATE CHILD WELFARE AGENCIES*, Washington D.C. 1997. *See also* P. Curtis & C. McCullough, *The Impact of Alcohol and Other Drugs on the Child Welfare System*, 72 CHILD WELFARE 533, Volume 2 (1993); Halfon, *Health Status of Children in Foster Care: The Experience of the Center for the Vulnerable Child*, *supra* note 2.

¹³ N. Halfon et al., *National Health Care Reform, Medicaid, and Children in Foster Care*, 73 CHILD WELFARE 99. Vol. 2 (1994); A. McIntyre & T.Y. Keesler, *Psychiatric Disorders Among Foster Children*, 15 J. CLIN. CHILD PSYCHOL. 297 (1986).

¹⁴ New York State Department of Social Services, Office of Quality Assurance and Audit, *REPORT OF MEDICAL SERVICES PROVIDED TO CHILDREN IN FOSTER CARE*, January 1995 (on file at the The Permanent Judicial Commission on Justice for Children).

¹⁵ Interview with M. Szilagyi, M.D., Foster Care Pediatrics, Rochester, N.Y. (Apr. 1999).

¹⁶ Interview with S. Blatt, M.D., ENHANCE, Syracuse, N.Y. (Apr. 1999).

¹⁷ U.S. General Accounting Office, *FOSTER CARE: HEALTH NEEDS OF MANY YOUNG CHILDREN ARE UNKNOWN AND UNMET*, GAO/HEHS-95-114 (Washington D.C. 1995).

¹⁸ Report on file at the Permanent Judicial Commission on Justice for Children.

¹⁹ Halfon, *Health Status of Children in Foster Care: The Experience of the Center for the Vulnerable Child*, *supra* note 2.

²⁰ Halfon et al., *supra* note 8.

²¹ G. Frank, *Treatment Needs of Children in Foster Care*, 50 AM. J. ORTHOPSYCH. 256 (1980); N. Halfon & L. Klee, *Health Services for California's Foster Children: Current Practices and Policy*

Recommendations, supra note 2; E.L. Schor, *The Foster Care System and Health Status of Foster Children*, 69 PEDIATRICS 521 (1982).

²² The requirements for EPSDT are contained in the federal Medicaid Act. 42 U.S.C. §§ 1396a (a)(43), 1396d(a)(4)(B), 1396d(r) (West Supp. 1998). The Medicaid Act was amended in 1989 to strengthen the EPSDT provisions. *See* Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, § 6403, 103 stat. 2106, 2263 (1989). For the scope of services entitled under EPSDT see 42 U.S.C. § 1396d(r) (West Supp. 1998).

²³ Under Title IV-E of the Social Security Act, all children in federal foster care or adoption assistance programs are entitled to Medicaid and as a result, entitled to EPSDT services. In New York, foster children are entitled to Medicaid. 84 ADM-4. *See also* N. Ruptier, *Ensuring Health Care for Foster Children Through Medicaid's EPSDT Program*, 87 AM. J. PUB. HEALTH 290 (1997).

²⁴ 42 U.S.C.A. § 1396a-d (West Supp. 1998). For a detailed explanation of EPSDT and its relevant sections see Kristi Olsen et al., CHILDREN'S HEALTH UNDER MEDICAID: A NATIONAL REVIEW OF EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (National Health Law Program, Los Angeles, CA.: August 1998); Jane Perkins, TOWARD A HEALTHY FUTURE – EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT FOR POOR CHILDREN (National Health Law Program/Texas Rural Legal Aid: 1995).

²⁵ 42 U.S.C. § 1396d(r)(5) (West Supp. 1998). *See also* § 1396a (a) (43)(B).

²⁶ Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, § 6403, 103 stat. 2106, 2263 (1989). Additionally, several professional organizations and advocacy groups have suggested specific and more stringent standards for health care to foster children. *See* American Academy of Pediatrics, *Health Care of Children in Foster Care*, 93 PEDIATRICS 335 (1994); Child Welfare League of America, *Standards for Health Care services for Children in Out-of-Home Care*, (CWLA Press: Washington D.C. 1988).

²⁷ *Sanders v. Lewis*, No.2:92-0353, 1995 WL 228308, reprinted in, *Medicare & Medicaid Guide* ¶ 43, 120 (S.D.W.Va., March 1, 1995 and Aug. 16, 1993, March 1, 1995) (consent order and compliance plan requiring outreach and screening for children in out-of-home-placement); *L.J. by Darr v. Massinga*, 778 F.Supp. (D.Ma. 1991)(consent decree requiring initial and periodic examinations for children in out-of-home placement).

²⁸ Pub. L. 96-272 (1980), Social Security Act, Titles IV-B, IV-E, 42 U.S.C.A. § 620 *et seq.*, 670 *et seq.*

²⁹ 42 U.S.C.A. § 675 (5)(A).

³⁰ 45 C.F.R. 1357.15

³¹ Utilizing the regulations applicable to welfare fair hearings. 42 U.S.C.A. § 671(a)(12); 45 C.F.R. §1355.30 (incorporating 45 C.F.R. §205.10 by reference).

³² U.S. Dept. of Health and Human Services, Administration for Children, Youth and Families, *Policy Interpretation Question*, ACYF-PIQ-83-4 (Oct. 26, 1983).

³³ Adoption and Safe Families Act of 1997, P.L. 105-89.

³⁴ *Id.* at Title I, § 101(a)(A).

³⁵ Individuals with Disabilities Act, 20 U.S.C.A. § 620 *et seq.*, as amended § 20 U.S.C.A. 1401 *et seq.* (1997).

³⁶ The newly passed federal regulations for the Individuals with Disabilities Act may be found in the *Fed. Reg.*, Vol. 64, No. 48 (March 12, 1999). For detailed materials on early intervention for children in foster children see The Legal Aid Society, TRAINING SEMINAR ON LEAD POISONING, Vol. I, Section III (New York, N.Y., Oct. 1998).

³⁷ *Id.* at § 300.20.

³⁸ *Id.* at § 300.515.

³⁹ *Id.* at § 300.15 (2) (i).

⁴⁰ 18 N.Y.C.R.R. Parts 507, 508.

⁴¹ Soc. Serv. L. § 409 *et seq.*

⁴² 18 N.Y.C.R.R. § 430.9-430.12. Preventive services may be either mandatory or optional – the categories reflect state reimbursement eligibility.

⁴³ 18 N.Y.C.R.R. 430.9(c)(1).

⁴⁴ 18 N.Y.C.R.R. § 423.4 (c) (d).

⁴⁵ 18 N.Y.C.R.R. 423.2(b).

⁴⁶ 90-ADM-21 (July 5, 1990).

⁴⁷ Id. at IV (E).

⁴⁸ Id. at IV (B), (C), (F), (V).

⁴⁹ Family Court Act Art. 6-10.

⁵⁰ Family Court Act §1011.

⁵¹ See e.g. Family Court Act § 1061.

⁵² See *Currier v. Honig*, 50 A.D.2d 632, 633 (3rd Dept., 1975)(holding that section 255 does not authorize ex parte order requiring county attorney to appoint an additional assistant); *New York Housing Authority v. Miller*, 89 Misc.2d 141, 144, 390 N.Y.S.2d 806,809 (Sup.Ct., Spec. Term. N.Y.Co. 1977); aff'd, 60 A.D.2d 823,401N.Y.S.2d 992 (1st dept. 1978) (holding that Family Court could not order Housing Authority to ignore housing selection priorities imposed under laws and its own rules). Courts are also bound by section 255's limits on the Family Court's authority to order assistance and cooperation from school districts. See FCA 255.

⁵³ The New York Court of Appeals held that a family court's order may not establish "a general overview of the functions of the Department of Social Services" because doing so "violates the constitutional mandate of separation of powers." The Court and the concurring judges noted, however, that its decision did not "rule out the possibility that, in the proper circumstances, section 255 might empower the Family Court to fashion a remedy that extends beyond the immediate needs of a particular child." See *Lorie C. V. St. Lawrence County Dept. of Soc. Services*, 49 N.Y.2d 161, 400 N.E.2d 336, 424 N.Y.S.2d 395 (1980). Future litigation will determine under what circumstances section 255 may be available to promote system-wide change. Other new York cases have established circumstances under which a court order would be improper: where a court order is outside the court's legal authority (see *In the Matter of D. Children*, 60 N.Y.S.2d 838, 458 N.E.2d 383, 470 N.Y.S.2d 142 (1983); where the court order contravenes or expands the agency's constitutional or statutory authority (see *Lorie C.*, *infra*); and where an order mandates a change or expansion of services without clear legislative authorization (*Matter of Dennis M.*, 82 Misc2d 802, 806, 370 N.Y.S.2d 458, 462 (Fam.Ct., Bronx Co., 1975. In 1987, the Legislature clarified the court's authority by adding FCA section 1015-a. But see *In the Matter of Daniel M.*, 166 Misc.2d 135, 631 N.Y.S.2d 470 (Fam.Ct., N.Y. Co., 1995) (holding that 1015-a empowered court to commissioner of social services to pay for four hours of skilled nursing care that was not specifically mentioned in the current comprehensive services plan because plan stated that recruitment of foster homes for hard-to-place, including those with special medical and developmental needs, was a top priority).

⁵⁴ For a detailed analysis of the role and legal authority of the law guardian in representing children with medical needs see Ronald Richter, *How to Represent Children Who Suffer From Lead Paint-Related Disabilities in Family Court Proceedings*, (The Legal Aid Society, Juvenile Rights Division: New York: N.Y., Oct. 1998)(Submitted as addendum to training materials for seminar on lead poisoning held on Oct. 19-20, 1998)

⁵⁵ Family Court Act §24.

⁵⁶ Family Court Act §251.

⁵⁷ Family Court Act §1015-a. Where appropriate, the law guardian can ask DSS or the court to refer a child for evaluation for early intervention and special education services and to designate a surrogate parent for early intervention and educational planning for the child.

⁵⁸ See R.H. Hughes & J. Rycus, *DISABILITIES AND CHILD WELFARE 9-12* (Child Welfare League of America Press: Washington D.C., 1998).

To: Mary Bourdette@ASL@OS.DC
Cc: Joseph Semidei@ACYF.CB@ACF.WDC, Madeline Mocko@OLAB@ACF.WDC, Mary Cohen@OLAB@ACF.WDC, Terry Lewis@ACYF.CB@ACF.WDC
From: Gail Collins@OLAB@ACF.WDC
Certify: N
Priority: Normal
Subject: IG report on NYC Kinship Foster Care
Date: Wed Jan 05 11:35:19 2000
Attached:None

This is in response to your request for information on a OIG report coming out on kinship foster care in NYC. I contacted the ACF Region II Office and this morning was connected into a conference call with Jack Madigan of the NY OIG office who summarized the results of the report. He was not yet at liberty to share the report itself, but says it is completed and awaiting signature and release by the IG's office in Washington.

The review was begun several years ago and was a follow-up to a \$67 million settlement reached with NY covering kids in kinship foster care from FY 1986-1994. The issue involved had to do with the physical removal of children from the home (and the requirement about the children having to have been physically removed within 6 months in order for the child to qualify for IV-E foster care.) After that settlement, ACF asked the office of audit services to see if NYC was adhering to the agreement. In addition, they were asked to look at whether home approvals were being done for kinship care placements, in accordance with New York's own requirements for approving kinship foster homes.

The review looked at 200 cases (100 each from FY 1995 and FY 1996) and examined the issues of physical removals and home approvals.

9 of 200 cases reviewed failed on the physical removal issue, some because the child was not removed within the 6 month timeframe, and some because city could not find documentation. All of the cases that failed involved children who were removed prior to the period of the review (FY 95-96), indicating that the city had improved its practices in this area since the agreement.

On the issue of home approvals, 108 out of 200 cases were found to be deficient. In 80 of those cases, no documentation could be found to show that the homes met approval criteria, and in 38 cases approvals were done late, but the city filed claims for periods before the home was approved. (10 cases fell into both categories.) Problems were found in a substantial number of cases of those contracted to voluntary agencies, as well as those for which the city itself had responsibility.

In addition, during the course of the review, the IG's office learned that a State audit of the city conducted in 1990 on the issue of home approvals found 88% of cases were deficient either because approvals were done late or there was no documentation.

A draft of the OIG's report was shared with the State and the City some time back. In response, the State did not disagree with the findings or the recommendations (that there be corrective action and monitoring/follow-up), but asked the OIG's office to consider a number of factors and to give the city credit for some things. The OIG's office did consider a number of factors and has reduced the amount of the recommended disallowance, essentially giving the city the benefit of the doubt whenever possible.

The city in its response did not agree with the findings, but also did not challenge them. It also said that the city has corrected problems and that, basically, the new NY SACWIS (called Connections) is going to take care of the

problem of home approvals. But then when they tried to pull a sample of 20 cases from the system they couldn't find them, stonewalled, and then didn't respond to OIG letters, etc.

The OIG report that is expected to be released will recommend a \$40.8 million disallowance associated with this review/audit. (This is down from \$60 million in the draft report.)

Also, the OIG's office is about to begin another review using the Connections system to look at all foster kids (not just kinship) and to trace back whether what is in the system is accurate/documented, etc.

I also learned that several other OIG reports of other states' foster care systems are expected out soon.

I think the main political issue that may arise from this report is its relationship to the monitoring reg. which we hope to get out (finally) very soon. But maybe it will just show the importance of our being out there to monitor.

I hope this information is helpful.

Gail

To: Mary Bourdette@ASL@OS.DC
From: Zeno W. St.Cyr_II@OIG.OMP@OS.DC
Certify: N
Priority: Normal
Subject: re:
Date: Wed Jan 05 14:58:09 2000
Attached:None

The NYC report will probably be issued in the next two or three weeks in conjunction with two others - one on Illinois and one on Massachusettes. All three reports concern eligibility issues, but the specific eligibility problems we note in each State are different. As soon as the reports are ready, I'll see that you get copies.

We'd be provide the Hill staffers with copies of our reports if you'd provide me with their names. I'll also follow-up with them in the event they'd like to be briefed.

Zeno II

----- Original Message -----

Hi Zeno. I understand that a report will be issued soon on foster care in NYC. Given that both Moynihan and Rangel are on the committees with jurisdiction over child welfare and I deal with their staff regularly about these issues, I'd just want to be sure that they will be apprised of the report in a timely way. Will you be doing this - or do you want me to (in which case you'd need to give me a little heads up re the report and its release date). Thanks.

----- End of Original Message -----



Shalini Ahuja
Family Desk Director
Center for an Urban Future
120 Wall Street, 20th floor
New York, NY 10005

February 2, 2000

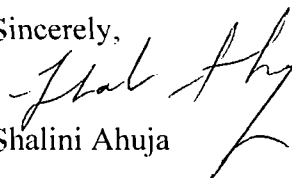
Ms. Nichole Rabner
Special Assistant to the President for Domestic Policy
2nd floor-West Wing
The White House
Washington, DC 20502

Dear Ms. Rabner,

The Center for an Urban Future recently completed the 6th issue of the *Child Welfare Watch*. This issue focuses on the impact of the Adoption and Safe Families Act on New York families, child welfare agencies and the court system.

I hope you enjoy reading this report. Please feel free to call me with comments or suggestions. I can be reached at 212-479-3348.

Sincerely,


Shalini Ahuja

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Families in Limbo: Crisis in Family Court

- There has been a dramatic surge in petitions brought against parents for neglect, according to state court statistics. In 1995, the city brought 6,658 new neglect cases. Last year, 10,395 cases were filed, a 55 percent increase in three years (see "Aggressive Prosecutions," page 4).
- In 1995, Family Court sanctioned the removal of 8,000 children. In 1997, that number skyrocketed to almost 12,000 (see "Aggressive Prosecutions," page 4).
- The increase in prosecutions is especially pronounced in the suburban boroughs. In the last two years, new neglect and abuse filings increased by 126 percent in Staten Island and 75 percent in Queens (see "Aggressive Prosecutions," page 4).
- In 1996, only one out of 10 parents who fought abuse or neglect allegations won, according to the state Office of Court Administration (see "Parent Lawyers," page 6).
- Nine out of 10 parents' attorneys failed to file a single court motion in their client's defense, according to a 1997 Vera Institute of Justice survey (see "Vera," page 7).
- According to a *Child Welfare Watch* analysis, eight of the Giuliani administration's 15 Family Court judicial appointments have had prosecutorial backgrounds. Only two of the others have practiced non-prosecutorial family law recently. The administration has yet to appoint a children's or parents' lawyer to the bench (see "Power Behind the Court," page 11).
- A state law requiring hearings on the status of adoptions has hit the courts hard. In 1994, the city held 287 status hearings. That number rose twenty-fold, to 5,500, last year (see "Judges," page 14).
- Children's lawyers routinely carry more than 120 open cases. An acceptable caseload level is around 75, supervising attorneys say (see "Children's Lawyers," page 9).
- According to a *Child Welfare Watch* analysis of city statistics, approximately 5,000 children will face permanent adoption if the new federal adoption law is strictly enforced (see "Adoption Law," page 14).
- Around 58 percent of the neglect petitions brought in Manhattan since last April have included allegations that parents suffered from substance abuse problems (see "Family Treatment Court," Page 12).

Child Welfare Watch is a joint project of the Center for an Urban Future and the New York Forum.
This edition was written by John Courtney, Wendy Davis, Peggy Farber and Alyssa Katz.

The New York Forum: James Dumpson, New York Community Trust; Julius C.C. Edelstein, Senior Vice-Chancellor Emeritus, CUNY;
Augusta Kappner, President, Bank Street College; Stanley H. Lowell, former Deputy Mayor, City of New York;
Milton Mollen, ex-Judge; Richard C. Wade, Distinguished Professor Emeritus, CUNY.

Center for an Urban Future: Kim Nauer, Executive Director; Neil Scott Kleiman, Associate Director; Glenn Thrush, Editor.

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Playing the Numbers

New York's Latest Foster Care Fix

- Of the 18 agencies that won the Administration for Children's Services' competitive contracts in the Bronx this winter, 7 were on probationary contracts just two years ago. Of the 12 losing bidders, at least half stand a good chance of securing a contract in another borough (see "Bronx Fear," page 4).
- New York City hands out \$616 million a year to more than 60 private agencies that provide foster care. That's up substantially from under \$200 million in 1983 (see "Contract Players," page 6).
- Private agencies handle 79 percent of all ACS cases, up from 68 percent in 1994 (see "Contract Players," page 6).
- Until recently, there has been no link between agencies' quality of service and the size of their contracts—in fact, some agencies with poor ratings received increases in the size of their contracts (see "D-Graded," page 7).
- For the first time in a decade, New York City will be seriously probing the work of its child welfare contract agencies. And for the first time ever, it is using a sophisticated statistical analysis to make sure they are getting desired results for children in foster care (see "Watching the Exits," page 8).
- New York's new system for evaluating the work of child welfare agencies looks at 17 different criteria, including how long it takes children to leave an agency's care. Not one assesses the quality of the casework done with families (see "Watching the Exits," page 8).
- Despite ACS's recent move to measure agencies' success in reunifying families, the city continues to place a disproportionate emphasis on adoption in its relations with agencies (see "Adopting a Position," page 8).
- During the 1980s, a comprehensive "Program Assessment System" looked carefully at foster care agencies' work with children and families. When dismantled in 1991, it was replaced by the same evaluation system used to clear construction contractors and school-lunch vendors to do business with New York City (see "Coping With COPES," page 10).

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No Kin Do: City bucks national trend toward kinship foster care

For years, child welfare experts have claimed that foster kids do better when placed with their imperfect relatives instead of perfect strangers. Now, a landmark study of children in Illinois has provided the biggest boost yet for "kinship care," the practice of placing abused or neglected children with relatives—typically a grandmother or an aunt. According to researchers at the University of Illinois' Children and Family Research center, children placed with relatives were only half as likely to be abused as kids living with strangers.

Tracking five years of abuse reports, the report's authors found that 2.5 percent of kids placed with non-relatives suffered abuse, compared to just 1.4 percent for children in kinship care. The UI team says they may have slightly over-reported instances of abuse at the hands of non-family members. Still, they add this doesn't have an effect on their overall conclusion—which will be bolstered by a follow-up report to be released later this year.

The Illinois report confirms a growing body of research touting the benefits of family-based foster care. In 1994, the Washington-based Child Welfare League released a study finding that placing kids in a familiar surrounding with relatives significantly reduced the trauma children experienced after being removed from their parents' homes. A 1997 United Way report yielded similar findings. And earlier this year a congressional report found that kids in kinship care felt more comfortable with relatives than those placed with strangers.

Based on accounts like these, a growing number of states are embracing kinship care. But New York City, with a foster care population of close to 38,000 children—the third largest system in the nation—has been steadily moving in the opposite direction over the last decade. During the late 1980s, the number of kids placed with relatives



rose about sixfold. But between June 1991 and June 1999, the numbers of children in kinship care in New York City dropped from 22,250 to 11,024, a decrease of more than 50 percent.

Placing foster kids with families first has long been the city's stated policy. And officials with the city's Administration for Children's Services (ACS) say the decade drop in the use of kinship care is due to the overall decline in the foster care population and increases in the number of kinship foster parents adopting kids in their care. They also note, significantly, that the percentage of children placed with relatives has begun to climb again, moving from 15 percent of all admissions in 1997 to 20 percent in 1998. While this trend is promising, system watchers note that the city's use of kinship care still lags far behind other systems.

In May, a report issued by the Special Child Welfare Advisory Panel, a group of outside experts appointed by the court to examine the city's welfare system, pointed out that other states typically place 20 to 40 percent of their foster children with kin. The report also noted that some ACS staffers "acknowledge that they try to avoid [kinship placements]" and said the city was "underutilizing" kinship by failing to train and monitor ACS workers in making family placements.

In chiding New York, the members concluded that family placements were the best possible option for kids. "Staying with relatives," their report found "helps children maintain family ties and a sense of continuity...that no stranger can provide."

To get a copy of the University of Illinois study call 217-333-5837. To get a copy of the Special Child Welfare Advisory Panel Report call 212-509-2718. This is the first in a three-part series examining the city's kinship foster care policies.

*Children placed with
relatives were only half as
likely to be abused as kids
living with strangers*

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Kim Nauer: Executive Director
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The Marisol Settlement: What *it* means behind the *scenes*

It has been three months since Marcia Robinson Lowry settled her ambitious class-action lawsuit against the Administration for Children's Services, *Marisol v. Giuliani*. The deal, ending more than three years of rancorous litigation, was hailed widely as a fair compromise, allowing Commissioner Nicholas Scoppetta to work toward reform unfettered by the courts, advised by well-respected group of outside child welfare professionals.

The first report of the four-member Special Child Welfare Advisory Panel, however, was disappointing. The analysis was overly conciliatory, contained important omissions and ultimately had few helpful recommendations. More important, there are real questions about what—if anything—the commission has the power to accomplish, given its circumscribed role under the terms of the settlement.

The scope and quality of the panel's work is important because advocates have lost the ability to file class-action lawsuits on behalf of children for the next two years, while the panel exists. Already, the settlement has forced the shelving of one class-action pressing for better services to gay and lesbian children. And both Lowry and ACS have been aggressive in requesting that other policy-oriented litigation against the agency be moved under *Marisol's* U.S. District Court judge, Robert J. Ward.

The idea was to allow the city breathing room to make substantive reforms. Lowry, director of Children's Rights, Inc., has had a long history of filing lawsuits that force agencies into court receivership—a legal tactic that in recent years has been viewed by many as counterproductive. Given Scoppetta's popularity and prior efforts at turning the system around, there was some doubt that Lowry would actu-

ally win her case. Finally, Lowry herself clearly has some faith that the city will make headway toward reform.

"I think the city now has a wonderful opportunity to do the things they say they want to do," she told *Child Welfare Watch*. Everyone already knows what the problems are, she argues. "But is it our goal to smash our fists in their faces or get better services for the children?"

This change of heart would be fine—if Lowry hadn't negotiated away the rights of other children's groups to keep legal pressure on the city. A lawsuit filed by

the Urban Justice Center on behalf of gay and lesbian children sought concrete remedies—like special housing and staff training—for these particular kids. That case is unlikely to go forward as a class-action now. Moreover, plaintiffs in ACS class-actions having nothing to do with children are facing the *Marisol* judge. At

Lowry's request, a lawsuit filed by the Center for Law and Social Justice on behalf of parents who allege that their children were removed for no

WHAT TO WATCH

The Marisol panel's next report will examine ACS placement and foster care issues.

To contact the panel or get on the mailing list, call (212) 509-2718

MORE TO KNOW

The Marisol Panel

Judith Goodhand, consultant, University of North Carolina Graduate School of Social Work.

John Mattingly, former executive director of Lucas County Children's Services in Toledo, Ohio.

Douglas Nelson, president, Annie E. Casey Foundation.

Paul Vincent, director, Child Welfare Policy and Protective Group in Montgomery, Alabama.

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reason was moved under Judge Ward and is expected to be influenced by the context of the *Marisol* agreement.

"Our only chance is the faith and hope that these guys will come up with good recommendations—and Nick Scoppetta will follow them," says Doug Lasdon, executive director of the Urban Justice Center, which filed the *Joel A.* lawsuit. "To us, that's not worth a whole lot."

The role of the *Marisol* panel, by the panelists own admission, is to help ACS implement the goals that Nicholas Scoppetta has already set—such as establishing neighborhood-based networks of services and increasing the accountability of employees. That means that important Scoppetta-driven changes, like the sharp increase in child removals and the decline in preventive services, are not slated for discussion. The panel's staff director Steve Cohen says members may attempt to look at these issues in some way, but points to a clause in the settlement stating "the Advisory Panel will not attempt to suggest approaches that would differ from the [ACS] Reform Plan's overall goals and principles."

Issues to be examined in the panel's next four reports include: foster care placement procedures, how to hold contract foster care agencies accountable, tracking the work of front-line workers at ACS, and evaluating the role of the supervisors. The panel's first report has already drawn criticism for being overly vague and the product of a questionable collaboration between Lowry and ACS [see sidebar]. Panel members acknowledge these problems and say future reports will be more substantial.

Even so, there remain serious questions about the limits of the commission. Certainly, the panelists are respected and well-versed on child welfare issues. But none are from New York. They lack direct experience in a complicated and highly political system that relies on more than 100 contract agencies to carry out the bulk of its services.

More importantly, if this is to be anything more than a consulting relationship, the panel will have to be very critical at times—and willing to help bring the agency back to court if ACS fails to follow through on its recommendations. So far, there is little in the current rhetoric indicating that the panel will press ACS to make the dramatic changes needed to improve the system.

"The effort is predicated on the conviction that there is a strong, capable, committed group of people leading ACS," says panelist John Mattingly. The mission is "not to chop someone's head off," adds Cohen, but to create a "continued dialogue." Only time will tell if this dialogue is any different from the many others that have preceded it.

CONSIDERING THE SWEEPING NATURE of the *Marisol* lawsuit, the first report of the panel appointed in *Marisol*'s name has proven to be a serious disappointment for those seeking ACS reform. The 24-page document, focusing on the agency's ability to move children back into permanent homes, lacked vision and was too abstract to be useful.

This probably has something to do with the fact that Marcia Lowry and ACS hashed out the details of the report long before the *Marisol* panel released it. A draft was submitted to both parties in September 1998—four months before the settlement was announced—for their approval. "The first report was developed in draft as sort of a trial run," explains panel director Steve Cohen. "If either of the parties had thrown up their hands at the draft, there wouldn't have been a settlement." Panel member Doug Nelson emphasizes that the process will differ in the future. "[ACS and Lowry] will have the chance to review and comment, but not to approve or veto anything."

The report did make several good suggestions, among them that the agency establish principles and targets governing the duration and quality of foster care stays. The panel also requested that ACS set up a better system for holding contract agencies responsible for getting children back into permanent homes. That said, there were several major issues that were conspicuous in their absence. Among them:

- ♦ *The decline of preventive services.* Keeping children in their homes is the best form of permanency. Despite their importance to the well-being of children and their families, preventive services received only glancing references.

- ♦ *The "per-diem" problem.* The foster care agencies are paid for each day a child is kept in care with payment ending the day the child leaves, building in a financial incentive not to return children to their families. It's yet another obstacle to permanency—one of many reasons the average stay of a child in New York City's foster care system is four years.

- ♦ *The strain that a surge new cases has put on private agencies.* Although ACS has been working to reduce the caseloads of its own workers, the private foster care agencies have discretion in how many cases they assign each staffer. Overwhelmed caseworkers are slow to take the steps needed to reunify the family or get children placed into adoption.

- ♦ *The overrepresentation of minority children in the system.* An estimated 3 percent of the more than 40,000 children in foster care are white, 73 percent are African American, and 24 percent are Latino. In cases of confirmed neglect or abuse, ACS is twice as likely to remove black children from their families as it is to remove white children. The entirely-white panel ignored this issue.

No Kin Do: Flouting the Feds, Pataki Won't Apply for Key Kinship Waiver

When it comes to fixing child welfare systems, many states are aggressively seeking alternatives to the dismal grind of shunting foster kids from stranger to stranger. New York State, however, has just slammed the door on one especially promising innovation.

Most children are placed with pre-screened strangers after they are removed from the care of their abusive or neglectful parents. But recently, many local officials have seized on the idea of placing many of these kids with relatives—usually a grandmother or an aunt—to assure some continuity in their lives. Studies have shown that these placements—known collectively as “kinship care”—ease a child’s adjustment to foster care and may result in fewer instances of children being abused while in foster care.

Still, for the second time in three years, Governor George Pataki has failed to file a key waiver application that would allow the state to shift millions in federal dollars to fund to kinship programs. Child Welfare Watch learned that a half dozen other big states—including California, Illinois, North Carolina and Maryland—have obtained the five-year waiver. “We weren’t sure if kinship care was the way to go,” says Judy Gallo, the Pataki administration official responsible for the waiver request.

The decision puts New York in a dubious class by itself. New York City has seen its number of children in kinship care fall by half in the 1990’s, even as many states have steadily increased their kinship caseloads. Gallo said this fall in city kinship placements was the main reason the governor made his decision. About 75 percent of the state’s total foster care population comes from the five boroughs. “The decline in kinship foster care placements

Six states have gotten Washington's permission to shift funding to kinship foster care. Why won't New York get with the program?



discouraged us from looking at the waiver,” she said. Administration critics had another take. “I heard that the application involved too much paperwork,” says Sania Metzger, a child welfare expert on the staff of Assemblyman Roger Green, chairman of the Committee on Children and Families.

Before 1996, the feds barred states from using foster care money—known as Title IV-E funding—to pay for many kinship programs. Then, three years ago, in recognition of the growing popularity of kinship placements, the Department of Health and Human Services Administration (HHS) started doling out waivers. At the time, Pataki turned down the offer and will reject a second chance to re-apply this year, according to state

sources. It isn’t the first time the governor has struck a

blow against kinship care. In 1996, Pataki failed in a bid to get the state legislature to impose a one-year limit on funding for children staying with relatives.

Most other states have jumped at the chance to divert money to kinship. Illinois officials estimate they will use their waiver to free up \$3 million to expand its kinship guardianship program.

Apparently the program works: Illinois has found that less than one percent of children in subsidized guardianship programs return to standard foster care. There’s also a substantial financial savings—about \$6,000 per child in saved court and agency costs—according to Michael O’Conner, project director for the program. And last month, CWW detailed a recent study by the University of Illinois’s Children and Family Research Center, showing the success of Governor George H. Ryan’s kinship push.

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This report was written by Shalini Ahuja with Glenn Thrush

City Seeks Changes in State Adoption Law

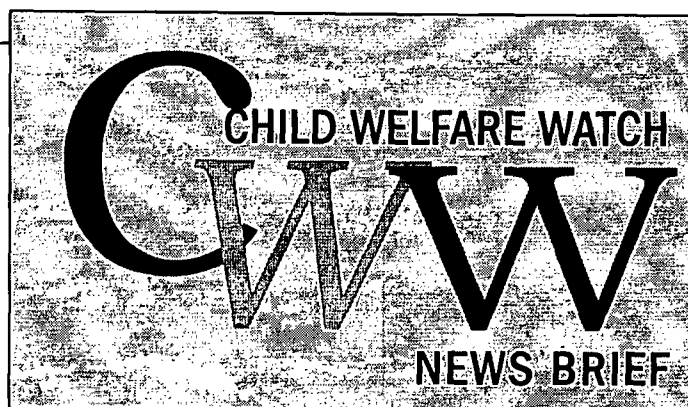
When the federal government gave New York State \$3.5 million in money to implement the sweeping new adoption law, Albany's law-and-order legislature spent \$2.2 million of the cash for fingerprinting potential parents. But less than one percent of the parents screened have turned out to have violent criminal records—which would trigger the removal of their kids.

So far, the state has rooted out only about 100 violent felons after fingerprinting half of the 20,000 people they plan to screen under the law, according to officials at the city Administration for Children's Services (ACS).

The small number—plus the fact that a number of these felons have proven to be fit parents—is raising serious questions about New York State's plan for implementing the complex and controversial adoption law. Under the state's ASFA implementation law, passed in February anybody with a criminal conviction—involving child abuse and neglect or selected violent crimes—is automatically barred from ever adopting a child, or even keeping the foster children they have. In fact, a child is not legally allowed to remain in a home where anyone over the age of 18 has a record which includes crimes like manslaughter, murder or rape.

The law exempts criminals with less severe violent crimes like assault and drug convictions if the crime took place more than 5 years ago. But the law makes no exceptions for the more serious offenses, even if a person's crime is decades old and they've proven to be an exceptional foster care parent.

That may change soon. ACS Commissioner Nicholas Scoppetta, is currently drafting a bill that would allow judges more leeway in giving fully rehabilitated felons a chance to adopt, provided they have a track record of responsible parenting. "[ACS] is proposing legislation that would give the



court discretion in deciding what is in the child's best interest in these types of exceptional cases," said Jennifer Falk, a spokesperson for the agency.

The news comes just a month after Kings County Family Court Judge Philip Segal ruled that a 53-year old Brooklyn woman had the right to apply to adopt her four young nieces, despite a 20-year old manslaughter conviction. In 1979, the unidentified woman—known by the pseudonym "Gwendolyn Grant" in court papers—pleaded guilty to killing her abusive boyfriend in self-defense. Since completing three years of probation, Grant has led a law-abiding life as a dental assistant and had been caring for her nieces for the past 8 years. Citing her "excellent" care of the children, Judge Segal ruled that the law should not prevent Grant from adopting.

Child welfare lawyers say the decision is apparently having

a ripple effect on other judges, who may also buck the law from the bench. ASFA, passed two years ago, forces states accelerate timetables for many adoptions. Congress left it up to states to decide whether people with criminal records can adopt. A few states, including Illinois and Pennsylvania, permit foster parents with decade-old convictions to adopt.

According to Giuliani administration sources, Scoppetta's staff is drafting a bill that will give judges the right to rule on a felons fitness to adopt, case-by-case. The Assembly is already considering a similar bill introduced by Brooklyn Democrat Roger Green. But both measures will have to make it past the Republican-controlled State Senate, which has proven reluctant to roll back similar get-tough laws. "The main thing we are all concerned about is assuring that kids are not going to be removed from good homes, homes they are thriving in," says Sania Metzger, a Green aide.

NY has spent \$2.2 million to fingerprint adoptive families. So far they've only snared about 100 criminals—and some of them have turned out to be good parents.

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The Child Welfare Watch News Brief is a project of the Center for an Urban Future, the New York Forum and the Child Welfare Fund. It is distributed twice monthly by fax or email. To get on the distribution list call: (212) 479-3348, fax: (212) 344-6457 or email: shalinl@nycfuture.org.

This report was written by Shalinl Ahuja with Glenn Thrush.

Court ruling may end reckless removals of children

Advocates for children and families have been arguing for years that city child welfare caseworkers routinely flout a state law that requires them to seek court permission before removing kids from their homes in non-emergency situations. In essence, they say, the city has been removing kids first and asking questions later. Now, a decision by the nation's second highest court may finally force the city to end this practice.

Last month, the U.S. Court of Appeals for the second circuit found it unconstitutional for city caseworkers to remove children without first obtaining a court order, except in cases where there is an imminent life, health or safety risk to the child. The decision resolves a nine-year battle involving a five-year-old girl who was forcibly removed from her Brooklyn kindergarten class in 1990 by city caseworkers who suspected she was the victim of sexual abuse.

Without even notifying the child's parents—much less obtaining a judge's consent—child welfare caseworkers took the girl to Coney Island Hospital for examination. But doctors found no signs of abuse and she was returned to her parents. Her family later sued the city, arguing that caseworkers violated their daughter's fourth amendment rights and subjected her to unnecessary trauma.

The decision could have far-reaching ramifications. Carolyn Kubitschek, one of the lawyers who argued the case for the girl's family, says that for the first time the ruling makes the actions of individual caseworkers accountable to Family Court. "Caseworkers can no longer go and remove children from homes based on their own opinion," she says. "They now have to rely on a judge to make that

"Caseworkers can no longer go and remove children from homes based on their own opinion. They now have to rely on a judge to make that decision."

decision."

Even the city acknowledges that the case could have a profound impact on the future actions of city child welfare workers. Ellen Ravitch, an appeals attorney for the City, says the ruling "has the potential to change casework practice, especially in the area of removals."

As it is, caseworkers must make quick judgement calls about whether kids are in imminent danger. These decisions have been further complicated by an aggressive policy from the city's Administration for Children's Services that instructs caseworkers to remove kids from their families whenever there is any doubt that children are in imminent danger. This has caused caseworkers to err on the side of child safety.

But advocates argue that city child welfare workers have gone overboard. Marlene Halpern, a Legal

Aid attorney, estimates that court orders are not sought in 85 percent of cases in which kids are removed from their homes.

State law prohibits caseworkers from taking children into custody without court authorization or parental consent unless "the child is immediately threatened with harm." But they regularly get around this law by erroneously claim-

ing that they can't afford to wait for a judge's approval. "The city cries emergency like a person cries wolf," says Richard Wexler, president of the Coalition for Child Protection Reform and a longtime monitor of the city's child welfare system.

The Appeals Court decision may not be the final word on this subject. Last week, city lawyers petitioned the three-judge panel to reconsider its decision. If necessary, the city could argue the case as far as the Supreme Court.



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The Center for an Urban Future, the sister organization of *City Limits* magazine, is committed to incubating and promoting proactive public policies that are affordable, practical and humane. The Center seeks out open-minded New Yorkers willing to bend traditional ideological positions and forge sensible and equitable solutions to critical urban problems. It gives community leaders and on-the-ground practitioners a unique vehicle for sharing their ideas and experience with those more conventionally considered to be the "experts."

The New York Forum

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The New York Forum is an assembly of New Yorkers dedicated to the proposition that the urban problems of New York City and its adjacent region need to be re-thought and re-examined, with new solutions for problems that have defied solution until now, such as race, crime, education, literacy, child welfare, the regional economy and the efficiency and funding of government. All channels of public education need to be employed in pursuit of new solutions and improvements, along with a series of think-tank task forces and public forums.

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CHILD WELFARE WATCH **CW**

An Agenda for Change

WELCOME TO THE FIRST EDITION

of *Child Welfare Watch*, a semi-annual newsletter published by the Center for an Urban Future and the New York Forum. *Child Welfare Watch* aims to be a unique source of news, opinion and analysis for and about New York City's child welfare community. It is also a vehicle for promoting innovation and reform in an oft-troubled part of the municipal government, and in the private sector, too.

Over the last 30 years, the provision of child welfare services in New York has gone through a series of reforms—but few of these have effectively improved the system. Critical reports have piled up, horrifying child deaths have occurred and occurred again, administrations and their commissioners have come and gone. Every few years, moments of reform appear only to disappear just as quickly. Today, the media spotlight has once again come to rest on the child welfare system. The city, once again, has put forth a comprehensive plan for reform. Yet without greater public understanding of the issues, and without an honest outside assessment of what, if anything, is actually changing, we may see this moment of reform pass, leaving few or no improvements in place—just like before.

Children today are removed from their families in much the same way they were in the 1960s, spending years in foster care. Computerization still lags, and caseworkers continue to keep their handwritten records filed away in manila folders. You could pull out a stack of yellowed newspaper clippings addressing problems of the child welfare system, and much of what you would find there is still applicable today. Over the years, reform has been stymied by haphazard funding or an insufficient com-

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mitment from City Hall, or by the competing philosophies of bureaucrats, social service providers and media pundits. Of course racism, sexism and society's stuttering efforts at alleviating poverty are also to blame.

But there's another culprit: a shortage of accessible, credible information about how the system works; about trends in government, the non-profit sector and the city's neighborhoods; and about possible approaches to reform. *Child Welfare Watch* hopes to provide this kind of analysis and information in language every reader can understand—from policy professionals to parents and from government officials to community activists.

First, the basics: child welfare costs taxpayers billions. In 1995, the city, state and federal governments spent \$1.3 billion on the provision of child welfare services in the five boroughs. In Fiscal Year 1996, the 36 largest providers of foster care services were among the city's top 100 private-sector contractors, earning a total of nearly one-half billion dollars each year.

The number of children and families whose lives have been changed by the child welfare system is equally vast. In 1996, the city investigated 53,000 cases of parental abuse and neglect, and 25,900 families received preventive services. That same

year, 42,000 children were in foster care.

A few months ago, the Giuliani administration laid out a rough road map for improving the child welfare system. If true improvements are to take hold, however, the public needs to know exactly how these billions of dollars are spent, how services are delivered and how the system affects the lives of the children and families it purports to serve.

continued on page 2

Does child welfare devalue the family? Page ②	Kinship care placements in steep decline. Page ③	The assault on preventive services. Page ④	Adoption takes precedence over reunification. Page ⑤	Keeping brothers and sisters together. Page ⑤	Families get lost in ACS plan. Page ⑥	Keeping track: child welfare statistics. Page ⑦
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Does Child Welfare devalue the family?

During the past five years, 46,974 children have been taken from their parents and placed in New York City's foster care system. Nearly three-quarters of these children were brothers and sisters from approximately 16,000 different families.

Of these families, 60 percent are black, 30 percent are Latino and 8 percent are interracial. It is a system for poor families, single-parent families, families who are homeless or whose parents are substance abusers or infected with HIV.

These are also the families whose stability is the single most important prerequisite to the improvement of the city's troubled neighborhoods, including Harlem and the Lower East Side in Manhattan; Highbridge, Mott Haven and Hunts Point in the Bronx; Bushwick, Bedford-Stuyvesant, East New York and Brownsville in Brooklyn; Jamaica and the Rockaways in Queens.

Certainly, ensuring the safety and well-being of our city's children is of paramount importance to the city as a whole as well as to the officials of the Administration for Children's Services, New York's child welfare agency.

But what, exactly, is the best way of doing this? By promptly removing children from allegedly neglectful parents and putting them in foster care, or by helping parents learn to stop being neglectful?

Before children were removed from their homes, how many of these 16,000 families were offered services that could have kept

them together while ensuring that the children were well cared for?

And in cases where removal was necessary, how many brothers and sisters were needlessly separated from each other after they were taken from their parents? And how many were placed with strangers when there

The child welfare system fails to do all it can to stabilize families and promote healthful child rearing within them.

were relatives who might have taken them into their homes instead?

Finally, how long have these children remained in foster care without either returning to their families or being adopted?

Most of these critical questions—and dozens more—remained unanswered for years. As a result, we have not been sure whether the city's child welfare system was truly focused on the needs of the families it came into contact with, or if it was indifferent to the sanctity of the families entrusted to its care.

In this edition of *Child Welfare Watch*, we've set out to answer many of these questions.

Anecdotaly, we know that in many cases the child welfare system has successfully assisted families to become more stable, more appropriate places for child rearing,

We also know of many cases in which the system has recklessly broken families apart. But anecdotes cannot tell us the full story. In seeking answers to the questions posed above, we set out to look at them more systematically and analytically.

We have found the child welfare system is not doing all it could to stabilize families and promote healthful child rearing within them. Children are often removed from their parents and placed in foster homes in a haphazard fashion; prevention programs are often incorrectly designed and inadequately funded; and incentive programs that promote speedy adoptions—while offering no such

encouragement for family reunification—reach for one laudable goal at the expense of another.

These problems are not insurmountable. Indeed, the Administration for Children's Services recently released plans for reform specifically addressing a few of the issues raised in the pages of this newsletter, and doing so in a helpful way.

Yet it is unclear whether other matters of paramount importance to the families in ACS's care, also explored in these pages, are on the agency's radar screen. The analysis and recommendations presented here are offered in a constructive spirit, in the hope that they will prompt a sincere and meaningful dialogue, spur further research and lead directly to the development of effective, workable solutions. ■

CONTINUED FROM PAGE 1

An Agenda for Change

The Child Welfare Watch advisory board, writers and editors are committed to providing some of the answers—and to raising many more questions. We will highlight inefficiencies and document injustice in the system. And we intend to propose concrete solutions and highlight effective models. Each edition of the newsletter will also include a series of statistical indicators relating to key aspects of the system, helping observers keep track of changes and trends.

Each issue will focus on one main theme and present that theme from a number of perspectives. This first issue focuses on the role of the family in the provision of child welfare services. Future editions

will look at client involvement in the system, the degree of community focus, the impact of welfare reform, the influence of racism, the role of the family courts, the intersection of education and child welfare policy and the methods of organizational survival among nonprofits that provide foster care.

Our plan also includes involving our readers in regular public forums and dialogues, exploring the themes we've raised in the newsletter and translating what we learn into a plan for action. Ultimately, we hope each reader of *Child Welfare Watch* finds him or herself informed, surprised and motivated to participate in constructive reform of New York City's child welfare services. ■

KEEPING TRACK

A five-year statistical survey: monitoring New York City's child welfare system

1 PROTECTIVE SERVICES

A. Reports of abuse and neglect

(The number of abuse and neglect reports jumped by 11 percent in Fiscal Year 1996)

B. Reports substantiated (%)

(Only one in five reports was substantiated by investigators in Fiscal Year 1996)

C. Pending rate

(Number of new cases assigned each month to each child protective caseworker)

D. Average child protective caseload

(The average caseload in Child Protective Services reached a high point in 1996)

E. Number of child protective workers

F. Overdue determinations (%)

(Percent of all reported cases in which ACS caseworker has made no timely decision whether or not to charge parent with abuse or neglect)

G. Child fatalities in cases known to ACS

2 PREVENTIVE SERVICES

A. Families receiving services

B. New families receiving services

C. Referrals from ACS (%)

(Percent of all new families receiving preventive services who were referred by the city child welfare agency. This number has dropped precipitously since 1991)

3 FOSTER CARE SERVICES

A. Number of children admitted

(Admissions to foster care increased by about five percent in Fiscal 1996)

B. Number discharged

(The number of children leaving foster care for adoption, reunification or independent living remains constant)

C. Total foster care population

(A five-year decline continued through Fiscal 1996)

D. Average years spent in foster care

(The average number of years children spend in foster care continued its five-year increase in Fiscal 1996)

E. Children with reunification goal (%)

(The percentage of children in foster care whose permanency goal is family reunification, as defined by their case manager, dropped substantially during the last five years)

F. Average ACS foster care caseload

(The caseload per ACS worker dropped to a five-year low in Fiscal 1996)

G. Percentage of siblings separated

(The percentage of foster children separated from their brothers and sisters has been declining slowly but significantly)

H. Recidivism rate (%)

(The percentage of children who leave foster care for family reunification and then, within one year, return to foster care, remains constant)

4 ADOPTION SERVICES

A. Children with adoption as a goal (%)

(The percentage of children in foster care targeted for adoption has increased substantially)

B. Finalized adoptions

(The number of finalized adoptions has increased more than 100 percent since 1991)

C. Children with slow adoption progress

(This number reflects the percentage of children with adoption as a goal who have not reached one of four specific "adoption milestones" within the last year. It has increased significantly as more children are targeted for adoption)

5 MISCELLANEOUS

A. Foster care funding, per child

(Funding claimed by local governments per child in foster care)

B. State preventive funding, per child

(Funding claimed by localities per child in preventive services)

C. Compliance with Section 153d (%)

(By state law, certain tasks and milestones must be achieved within a specific time frame for each ACS case. These include proper judicial review, completion of a service plan and so on. In Fiscal 1996, 80 percent of ACS cases complied with these requirements)

C. Confidential investigations caseload

(The number of children who are the subject of investigations as a result of alleged abuse and/or neglect within their foster home)

D. Children placed near home (%)

(Percentage of all children in foster care placed in the community district where they had previously lived)

DNA means data not available. Sources: Agency for Children's Administration Selected Welfare Trends; Mayor's Management Report; New York State Department of Social Services Monitoring and Analysis Profiles; New York State Department of Social Services ACS Indicators.

Families get lost in ACS Plan

Less than a year after taking the helm of one of the city's most troubled agencies, Commissioner Nicholas Scoppetta unveiled a comprehensive road map for reform titled "Protecting the Children of New York: A Plan of Action." The strategy document offers a thorough critique of the child welfare system's multiple problems over the last 25 years. It also employs grand statements of purpose for the future of the newly formed Administration for Children's Services, including "galvanizing the city to become partners in the drive to make sure that every child is safe," "transforming the culture of the [agency]," and "establishing accountability for every employee of ACS."

Alongside these clarion calls for reform, there is a clear shift in the agency's mission that has been widely overlooked by the media and by others in the child welfare community. The plan signals a sharp about-face away from one of the system's core constituents—families.

In May 1995, 18 months into Mayor Giuliani's term, the Child Welfare Administration released a 10-part mission statement summarized by the slogan: "The new CWA: protecting children, helping families to help themselves."

Eighteen months later, with the publication of Scoppetta's Plan of Action, families all but

disappeared as a constituent of ACS. The agency's new mission statement simply states, "To ensure the safety and well-being of all the children of New York."

The plan describes ACS's intent to re-tool its services, "First, last and always" for the protection of children. Assisting families to regain the strength, stability and services

Ninety-two percent of the cases reported to the state's Central Register are for neglect, not abuse. For the most part, these are families that can be helped.

they need to raise their children safely—the historical mission of the agency and its obligation under New York State law—is suddenly a second and diminished priority. No one disputes the need for a change in the way child welfare services are provided in New York City. And few will find fault with certain aspects of Scoppetta's plan. For example, he lays out new goals of holding all employees accountable for their actions,

establishes guidelines for higher performance standards and outlines the importance of greater computerization. He also offers an extensive set of proposals for basing child welfare services within communities where most of the agency's client families reside, better integrating the existing networks of support programs. Finally, he underscores the importance of keeping siblings together and in the same neighborhoods where they have previously lived.

But where did the families go? Is it true that a child is better served—i.e. safer—if he is pulled away from his parents without an adequate attempt being made first to deal with the family's problems? The agency has already put its money where its rhetoric is, making painful cuts in funding and referrals to key preventive services (see page 4) even as it increases the number of protective

caseworkers by 20 percent. Ninety-two percent of the cases reported to the state's Central Register are for neglect, not abuse. For the most part, these are families that can be helped with proper attention and preventive services. And in many cases, as many psychologists and child welfare practitioners will attest, this is the least traumatic route for improving the life of a child. ■

CONTINUED FROM PAGE 3

KINSHIP CARE IN STEEP DECLINE

care; they would often prefer to place their charges in traditional foster homes, with foster parents they have identified and trained. All of this is clearly having an impact on the program.

Yet there are very clear systemic advantages to maintaining and promoting kinship care. A United Way research study to be published later this year looked specifically at New York's foster children. Its preliminary findings indicate that:

- Children in kinship care are reunified with their parents more often than children in non-kinship care.
- Children placed in kinship foster care homes move significantly less among foster homes than children in non-kinship homes.
- Children who leave the system after having been in a kinship placement are less likely to return to foster care than those who are in non-kinship placements.

Child Welfare Watch recommends that the child welfare system stop undermining kinship foster care, and instead work to bolster the program. We urge the following:

- ① As required by law, the city's top priority once the child has been removed from a parent's home must be to seek placement with a relative.
- ② Administration for Children's Services protective caseworkers and staff of foster care nonprofits must be more effectively trained in prioritizing and pursuing kinship care placements, and in completing the required home reviews and approvals.
- ③ The nonprofits and ACS must establish a clear system of inter-agency coordination and accountability for kinship placements and home reviews.
- ④ Because children in kinship care are less likely to move quickly toward adoption than other foster children, the city should establish a program of subsidized legal guardianship. This way, a relative could become the child's legal guardian without the court terminating the rights of the child's parents. The child would then move out of the foster care system and into a permanent placement without adoption or reunification. And the legal guardian would be eligible for the same subsidies as adoptive parents receive today. ■

KINSHIP CARE IN STEEP DECLINE

In a stunning reversal, the number of foster care children living with relatives has dropped precipitously over the last few years, far faster than the decline in the number of children placed in foster care overall.

Until recently, the kinship foster care program was the fastest growing segment of the child welfare system. Between 1988 and 1991, the number of children placed in kinship care by city child protection investigators leapt from 3,460 to 22,250. This rapid expansion coincided with the doubling of the city's foster care caseload as poverty deepened and the crack cocaine epidemic swept the city's neighborhoods. In fact, the six-fold increase in kinship care placements from 1988 to 1991 accounted for most of the expansion of the child welfare system in those years.

That trend has since changed direction 180 degrees. Since 1991, the number of children in kinship care has dropped by 32 percent, to just 15,000. Over the same period, the number of children in non-kinship foster care has dropped by only 5 percent.

Kinship care has been criticized by state officials and some Family Court judges, which may help explain the decline. Yet extensive research has shown that kinship care is an important tool for preserving the integrity of families in need, allowing relatives to care for children with the aid of government-funded supportive services and financial assistance. Foster care practitioners and experts nationwide have long espoused the benefits of kinship care for children who must be separated from their parents. As the Child Welfare League explained in a 1994 study, kinship care provides benefits that standard foster care does not, including:

- enabling children to live with people they know and trust;
- reducing the trauma children may experience when they are removed from familiar surroundings and placed with strangers;
- reinforcing children's sense of identity and self-esteem by maintaining a connection with their family history and culture;
- facilitating children's links with their siblings; and
- strengthening families' ability to give children the support they need.

Kinship care has long played a significant role in the child welfare system. In 1985, the state Department of Social Services (DSS) established regulations for approving kinship foster homes, clearly stating that children placed in kinship care by the Family Courts were to be considered part of the official foster care system. In January 1986, the Legal Aid Society successfully sued the city to enforce requirements that kinship foster care children receive the same benefits and services provided children in traditional foster care.

And in 1989, the New York State legislature passed amendments to the Family Court Act and the social service laws requiring foster care placement with extended family members the first option considered for all children removed from their

homes. For several thousand children each year, kinship placement didn't prove possible. Yet for those whose relatives could care for them, the law established important public subsidies and support programs.

According to Legal Aid lawyers, the city's Child Welfare Administration established a workable system for identifying kinship placements, inspecting homes, following up with a 60-day inspection process and authorizing final approval. This all changed after December 1995, however, when a ruling in the long-running Wilder lawsuit governing foster care placements forced CWA to shift oversight of kinship care cases to nonprofit agencies. Today, nearly all new kinship cases are managed by nonprofits.

With the shift, the city dismantled the division that had been in charge of assessing and approving kinship homes. As a result, Legal Aid attorneys say, the institutional support structure for kinship care became fragmented. That meant more work for child protective caseworkers, who naturally became less inclined to make kinship placements.

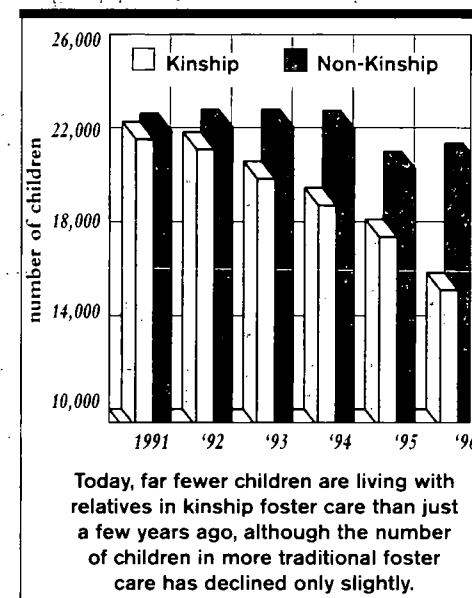
Since the beginning of Fiscal Year 1994, the number of children in kinship care has decreased by 5,524 children while the non-kinship population in foster homes decreased by only 1,442. This decline is driven primarily by the drop in admissions. Over the last five years, monthly placements in kinship care dropped from 31 percent of the total number of foster care placements to less than 10 percent, according to the "CWA Indicators" report produced each month by the state DSS.

If this trend continues, a valuable program that keeps families together and has clear benefits in child development will be allowed to continue its precipitous decline.

Meanwhile, kinship care has been under sustained attack from the Pataki administration. In 1996, governor-appointed DSS officials charged that the average length of stay of children in kinship foster care significantly exceeded that of children in other foster care programs, and cost the government millions of dollars. Pataki sought a one-year time limit on kinship care to dramatically cut the caseload and reduce costs, arguing that children in kinship care generally did not need the support services provided to children in traditional foster care. Officials also argued that children living with low-income relatives could qualify for welfare and other public benefits, a far less costly subsidy for the government than the standard foster care stipend.

The state legislature defeated Pataki's proposals. But other criticisms of kinship care have been leveled more quietly by Family Court judges. Many of them grew suspicious of the program as it ballooned in size after 1988. And some say—off the record—that they believe grandmothers, aunts, uncles and others manipulate the system in order to receive relatively high foster care subsidies for children they would be caring for nonetheless.

Executives and staff at nonprofit organizations that oversee foster care children also express a bias against kinship



continued on page 6

The assault on Preventive Services

Preventive services have long been a successful, core element of the child welfare system, providing thousands of needy families with access to social services at a time when they would otherwise be threatened with collapse.

Yet over the last two years, preventive services have fallen out of favor, and some specialized programs have suffered deep budget cuts. Where there were once major incentives from the state for local governments to promote cost-effective preventive services, there are now equally potent fiscal incentives for local governments to scale them back.

At the same time, statistics reveal that city caseworkers are far less likely to refer families to preventive services than they were just a few years ago. There has been a dramatic 40 percent decline since 1992 in the number of children referred by city child protective caseworkers to prevention services. Instead, caseworkers are removing children from homes more quickly.

It's a change of significant proportions compared to just a few years ago. Yet the underlying reasons are obscure. Despite the decline in referrals, city officials still readily agree that preventive services are among the most important programs in the foster care arsenal. When the city investigates a report of neglect or abuse, workers must determine whether the problem, if there is one, can be solved inside the home. If they believe it can, they refer the case to preventive services. Preventive caseworkers keep children out of foster care by helping parents and families get whatever support they need, including substance abuse treatment, mental health counseling, day care, benefits assistance, after-school program referrals or parenting-skills training.

The city's own statistics, presented in a 1996 United Way report for the city's Human Resources Administration, showed that only a fraction of the families receiving preventive services ultimately ended up losing children to foster care. In 1990, for example, when 14,472 families took part in preventive service programs run by city-contracted nonprofits, only 191 children from those families ended up in foster care. The number has increased steadily since then, but it still remains very low.

It is clear, then, that preventive services are

highly effective. They also cost the taxpayer on average one-fifth as much as foster care, while helping families safely care for their children in their own homes.

Despite these advantages, the Pataki administration and the state legislature rewrote elements of the 1979 Child Welfare Reform Act two years ago, eliminating what had been a state contribution of three dollars for every one dollar the city spent on preventive services. In its place, they created the Child Welfare Block Grant, which provides the city with a lump sum for all of its child welfare

City caseworkers are far less likely to refer families to preventive services today than they were just a few years ago.

needs. Ultimately, this has translated into an across-the-board \$131 million cut in funding. To cope with the reduction, city officials eliminated or scaled back a number of irreplaceable specialized prevention programs. The Family Rehabilitation Program, a national model that used intensive support to help substance abusing mothers get treatment and keep their families together, lost its drug treatment component. A program designed to provide home-making services to families otherwise incapable of staying together—primarily because of acute disabilities—was also severely curtailed.

General preventive services—those that provide casework, referrals to other support programs and counseling—sustained smaller cuts. Directors of some preventive service and foster care organizations say the reduction in the number of city referrals to preventive services is the natural result of ACS workers' tendency to operate in a triage mode. "When you are in chaos, you tend to deliver services that are a priority," says a top executive of one of the city's largest foster care agencies. Others say the change reflects the defensive mentality of protective caseworkers following a year of bad press—i.e., it's better to remove children first and ask questions later. Finally, there's some question as to whether recently trained protective caseworkers understand how preventive services work. Even when there are plenty of services available, caseworkers have

to know how to take advantage of them.

An internal memo from ACS's Office of Management Analysis noted last March that "The total number of referrals from CWA to Contract Preventive Service Agencies continues to decline. There was an 11.7 percent decline from fiscal year 1995 to the first half of FY '96." The memo continues: "Of even greater concern is the sharp decline in the number of Family Rehabilitation Program referrals, from a high of 700 for FY '94 to 553 in FY '95 to 135 for the first half of FY '96.... Of concern is what is happening to the

drug abusing population that were formerly being referred to FRP." Indeed, some of these parents have found no alternative programs and may have lost custody of children. Interestingly, the capacity of the non-specialized preventive services programs has remained relatively unchanged. The groups that run them receive referrals from other

community organizations, physicians and schools. They also take parents who drop in off the street. While all of these people may benefit, they are not the families most immediately threatened with losing their children due to abuse and neglect charges leveled by the city. Preventive services should not be weakened, despite the state cuts and other threats. They are an integral piece of a system intended to stabilize families in need of help. Therefore, *Child Welfare Watch* recommends that:

① ACS should more effectively train its protective casework staff in the importance of preventive services, and enforce its own stated policy that the first consideration for any family is placement in preventive services—not removal of the child.

② Some preventive programs are more effective than others. Each should be assessed for outcomes, and the most effective programs should be the preferred placements for ACS cases. There also need to be more extensive studies of the savings and cost-benefits of preventive services.

③ The city should monitor referrals to preventive services by the office, zone and unit within ACS's Division of Child Protection. This way, officials can determine which offices are most responsible for the rapid decline in referrals and thus better target education and training of city caseworkers. ■

ADOPTION TAKES PRECEDENCE OVER REUNIFICATION

In 1995, the Child Welfare Administration introduced an incentive plan encouraging nonprofit foster care agencies to speed up the process of finalizing adoptions for children in foster care.

Two years later, the city continues to ignore demands from across the child welfare community calling for similar incentives promoting family reunification.

The city's Permanency for Children Preferred Placement Initiative (PPI) is part of a larger national trend directing new resources into adoption. The initiative targets children already identified as candidates for adoption, and rewards foster care agencies that finalize the transfers by giving them preference in the assignment of new foster care children. Because revenue for foster care agencies is determined by the number of placements they receive from the city, the incentive is a powerful one.

Speeding up the painfully slow adoption process is a long overdue reform. But the PPI excludes all other permanency goals—most notably reunification of foster children with their parents. This is a lopsided strategy that runs counter to the legal foundation of New York's child welfare system. State Social Service Law specifically instructs child welfare agencies to presume reunification will occur—right up until the point when either the family is brought together again, or the ACS commissioner approves a change in permanency goals to adoption.

The Council of Family and Child Caring Agencies (COFCCA), the Catholic Archdiocese and the Federation of Protestant Welfare Agencies have all asked that reunification be included alongside adoption in the PPI. In mid-1995, after Public Advocate Mark Green made the same request, Human Resources Administration chief Marva Hammons agreed. "CWA is continuing to work with foster care agencies to develop more concrete,

detailed measures of performance in reunification cases. Once we have agreement... I am sure we will accord reunification some what greater weight in our assessments of agency performance."

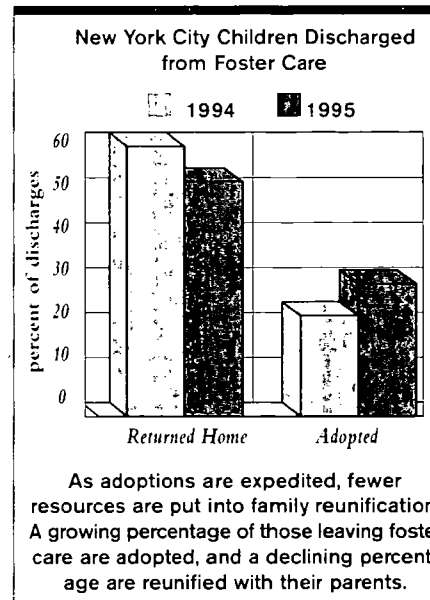
These have proven to be empty assurances. So far, ACS Commissioner Scoppetta has not responded to a pointed November 1996 letter from COFCCA Executive Director Fred Brancato demanding reform.

As nonprofit agency directors point out, dangling such a large carrot over the goal of adoption helps expedite these cases—but it diverts staff and money away from children whose goal is reunification. Providers tell *Child Welfare Watch* that the PPI has indeed forced them to recalculate service priorities.

Within less than a year of the PPI's creation, the number of children reunified with their families declined by 5 percent while adoptions increased more than 44 percent.

The child welfare system's focus on adoption has been joined by recent efforts by private foundations and President Clinton. The Kellogg Foundation recently earmarked \$5 million for ACS to expedite adoptions. And last month, President Clinton announced the Adoption 2002 plan, dispensing more than \$120 million to local governments to double the number of adoptions over the next five years.

In all fairness to families, resources should flow to those on both the adoption and the reunification tracks. *Child Welfare Watch* recommends ACS change course and include reunification as a discharge goal in the Preferred Placement Initiative. Clearly, the outcome measures for reunification will be different than for adoption and should be defined in conjunction with provider agencies, ACS and a representative group of families within the system. ■



Keeping Brothers and Sisters together

Placing siblings together in foster care in all but the most exceptional cases—such as when there is evidence of one sibling abusing another—has a positive impact on children's emotional growth and on smooth transitions to and from foster care. Research published in the journal *Child Welfare*, in Bank and Kahn's book, "The Sibling Bond" (Basic Books), and elsewhere indicates that siblings tend to support one another in their adjustments to trauma and loss. Sibling separation, they add, can lead to severe emotional problems.

Furthermore, researchers report that sibling

pairs placed together are more likely to stay in their first placement than children placed separately, and, on average, they remain in foster care for a shorter period of time.

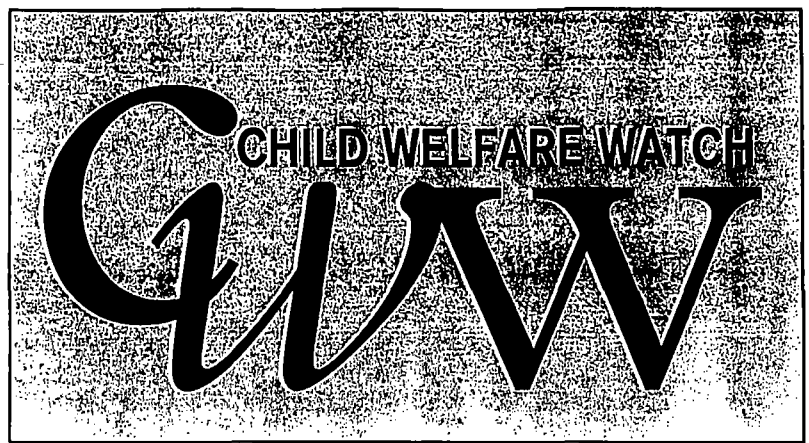
For years, New York City's child welfare system separated siblings more often than not. This changed after a 1990 lawsuit forced a complete overhaul. The city has hired approximately 50 "sibling facilitators," and in 1994, city officials issued extensive procedural reforms emphasizing siblings must be placed with one another in all but the most unusual circumstances. Today, for the first time in mem-

ory, fewer than half of the siblings in foster care are separated from one another.

Is there room for further improvement? There is. *Child Welfare Watch* recommends:

① The city and nonprofits should recruit, license and certify qualified foster families specifically for sibling groups, remaining mindful of the geographic distribution so that children can remain close to their families.

② Computerization of foster care records should be improved so that siblings currently placed separately can be identified and brought together more efficiently. ■



Restoring the Community Connection

THIS EDITION OF CHILD WELFARE WATCH is devoted to exploring community-based child welfare services: To what extent do they currently exist? What form might a much broader commitment to community-based services take? And why is it so important that the current administration be encouraged to pursue a decentralization agenda? Indeed, at the center of Commissioner Nicholas Scoppetta's ACS reform plan is a model for the decentralization of comprehensive services to communities. He is challenging decades of bureaucratic stasis on the issue and appears to be moving toward what could ultimately be a more effective method for keeping families whole and children safe. But there are other themes at work in the current reforms that could instead undercut the community focus. Foremost among them: the increasing emphasis on criminalizing child neglect, the precipitous removal of children from their parents before allegations are confirmed, and the resulting unnecessary trauma suffered by children and families alike.

Parents have been arrested this year on child neglect charges like never before. Misdemeanor child endangerment arrests are up 60 percent since 1995. And the number of children removed from their families by child welfare officials has increased 25 percent since 1996.

Some mothers have been arrested based on unsubstantiated reports filed by estranged and abusive husbands and boyfriends. Remarkably,

other mothers have been arrested and had their children taken away because they were too poor to afford a decent place to live, or because they left their 10-year-old at home alone for an hour or two in charge of a younger child. Some of them may be guilty of bad judgement—but do they deserve to be hauled into court? (See our statistics review, page 11.)

Decentralization should mean a closer alliance and collaboration between caseworkers, community service providers, health care personnel and others, including law enforcement. But if the primary emphasis is to be on removal of children and prosecution of parents, as has been the trend in recent months, the creation of effective child welfare policy will have been hijacked by politicians and the tabloid hype and taken out of an environment where good, professional judgment is valued.

There is no question that the most serious cases of abuse and neglect warrant immediate removal of the children. Yet in the sweeping majority of cases, either a more thorough investigation is necessary before allegations can be proven or the allegation itself points to the need for preventive intervention, not removal. In such cases, government should avoid burdening the children and

their families with the horrendous trauma of separation.

Sadly this is not the way the system currently functions. Of late, Family Court judges have reported that, in an increasing number of

continued on page 5

IN THIS ISSUE

2
**Far From Home:
The Foster Care Mismatch**

3
One Mother's Story

4
Geography Of Prevention

5
Will ACS Get On Track?

6
Parents On The Periphery

7
**Myths & Facts:
The Big Picture**

8
**Helping Families Work:
Model Strategies**

9
History Of Half-Measures

11
Watching the Numbers

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Far From Home: the Foster Care Mismatch

Like decrepit housing, violent crime and infant mortality, incidents of child abuse and neglect occur most often in the city's low- and moderate-income communities. According to government data, fewer than one-third of the city's 59 community districts (a total of 18 districts) account for two-thirds of all children placed in foster care.

Very few of these children, however, are placed in foster homes in or near their home communities. Eighty-five percent of all children removed from their homes are placed outside their community district of origin, far from their natural parents, relatives, friends and the culture in which they have been raised. This is not because of a lack of resources. Contrary to conventional wisdom, the city's black, Latino and poor communities have enough foster homes to provide for most of their neighbors' children who are placed in foster care. Indeed, nearly two-thirds of the city's foster children currently reside in the very same 18 low- and moderate-income community districts that account for the most child removals.

The problem stems from the inability of the Administration for Children's Services (ACS) to match removed children with nearby foster homes.

Take Crown Heights as an example. In 1991, 1,680 Crown Heights children were removed from their parents by ACS. Only 184 of them were placed in foster homes in Crown Heights. The remaining 1,496 were placed outside the area.

Yet that very same year, Crown Heights became home to 1,186 other foster children who had been taken out of other city neighborhoods. (More up-to-date data on the exact number of foster children placed close to home is not available from the city.)

Adding to this confusion, 30 different city-funded agencies, as well as ACS's own foster care office, were responsible for providing service to these 1,186 children and their families. The great majority of these agencies have no presence in Crown Heights, other than to recruit foster parents. Most city-contracted foster care agencies will certify foster homes in any given community regardless of its connections there.

Crown Heights is not the only community

vexed by this chronic mismatching. In 1996, in the University Heights section of the Bronx, 1,836 children were removed from the neighborhood and 1,326 children were placed there—but only a small number were from the community. In East New York in Brooklyn, 1,664 children were taken out of the community and 1,861 children were deposited there. In East Harlem, 1,481 children were removed and 1,589 children were placed; and in Jamaica, Queens, 1,826 children were removed and 2,347 placed.

Eighty-five percent of all children removed from their homes are placed outside their community district of origin, far from their natural parents, relatives, friends and local culture.

BROKEN BONDS

This geographic disconnect has serious implications for the children placed in foster care and for their natural families. Consequences include prolonged stays in foster care as well as chaos in the child's everyday life. "It disrupts their schooling, it disrupts their friendships," says Anne Lown, assistant executive director of Salvation Army Social Services for Children in Bushwick, Brooklyn, an agency under city contract to provide foster care services. "Everything they know in their lives is gone." Reunification with natural parents is also slowed because visits are more complicated. The system was not always this mixed up. In 1979, the New York City Board of Estimate passed a resolution stipulating that child welfare officials match children removed from their parents with a foster home in their own or an adjoining community. By 1985, the level of matching had reached more than 70 percent, compared to today's paltry 12-15 percent. Positive impacts were significant in terms of parent-child visitation, school continuity, family reunification, and the length of time a child spends in foster care.

During the foster care crisis of the late 1980s

and early 1990s, as nearly 80,000 children poured into the foster care system, the insatiable need for foster homes prompted non-profit city-contracted agencies to certify homes wherever they could find them. Geographic placement efforts were largely abandoned, and when the smoke cleared in the mid-1990s, foster children were being separated from their siblings and their home communities in a haphazard fashion.

ACS Commissioner Nicholas Scoppetta has acknowledged this mismatch problem and

vowed to fix it. "Our approach for neighborhood-based foster care would be to have the foster homes—and they're already there—take the children from the neighborhoods where they live," Scoppetta told a New York Law School audience in September. "We can't do that in every case.... But, by and large, we should be able to keep children in the neighborhood, keep them in the same school."

SYSTEMATIC DISREGARD

Even if the city follows through, the nonprofit, city-funded foster care agencies also bear responsibility for the system's geographic mismatch problems.

Of the 64 contracted foster care agencies working with ACS, 16 are based outside the city. Many of these have no offices in the city. As a result, city children are regularly placed in homes outside the five boroughs—and this number is increasing. In 1996, approximately 17 percent, or 6,700, of all children removed from their parents were placed outside New York City, compared to roughly 13 percent in 1992.

Child Welfare Watch interviewed a number of caseworkers who have worked for agencies located both within and outside the city. They speak of a reluctance among their colleagues to visit neighborhoods stereotyped as troubled or crime-ridden, even though they are the communities of origin for most foster children.

"Some of [the workers] would say, 'This neighborhood is dangerous. Here we are as social workers walking in, and the police won't even go in there,'" says Josephine, who asked that her last name not be used. Her comments are typical of many we interviewed. She had

worked for a foster care agency based in Long Island that managed only New York City foster care cases. "We didn't really focus on going out, locating the parent and getting them involved and keeping them involved," she recalls.

The majority of workers at her former agency were white and lived on Long Island, she adds, and their supervisors actually discouraged home visits with natural parents. "We couldn't go sit in the biological parent's home and have a visit. If you suggested it, my director would look at you and say 'Are you insane?'"

When foster care caseworkers have little familiarity with neighborhoods where their clients live, they are not always aware of basic community resources, like preventive services, drug rehabilitation, mental health services, schools and after-school programs, and they are less capable of working with parents. A speedy res-

olution to the case is thus undermined.

Baudilo Lozado, 15, a South Bronx native who entered foster care in 1988 after the death of his mother, wishes that his foster care workers thought more about the disruption in his life. "These foster agencies just take us from house to house, whatever suits their needs," he says. "Even though all my workers were minority workers, I don't think they've ever been in the neighborhood."

Such disruptions are counterproductive and unnecessary. Foster homes exist in every community, and in this era of computerization, geographic matching should be a matter of course in most cases. *Child Welfare Watch* recommends the following:

- 1 The city should require all contracted non-profit foster care agencies to recruit and certify foster homes only in New York City.
- 2 ACS is currently preparing to release a

citywide request for proposals (RFP) for foster care/adoption services. In the proposed RFP, each contract agency should be required to focus its services and its recruitment of foster homes to a limited number of communities.

3 ACS should work with each contract agency to exchange foster homes located outside its chosen area with other agencies.

4 Each contract agency should locate an office in the area where it has chosen to focus recruitment and placement efforts. Agencies should involve community representatives and assign appropriate staff to these offices to provide a range of services, while reaching out to other service organizations—including counseling, day care, drug treatment, job training and development programs, among others. ACS should cease to contract with any agency that does not have a New York City office providing a range of services to its clients. ■

ONE MOTHER'S STORY

She goes to great pains to prevent herself from crying. Yet at some points in the description of her family's experience in the New York City foster care system, Julia MacCullre breaks down and sobs.

In April 1994, suffering from severe depression, she signed a voluntary agreement placing her children in foster care. Since then, her efforts to rebuild her family have been greatly complicated by geography. Julia, who lives in the west Bronx, has spent her entire life in New York City. But the city placed her children with a nonprofit foster care agency headquartered in Syosset, Long Island. Their first foster home was in Floral Park, Queens.

Traveling to see them was manageable. But a year later, the agency moved the children to a home in East Meadow, Long Island, 45 miles from the Bronx.

Julia has always insisted on her mandated semi-monthly visits, and the agency has arranged for them to take place in the Syosset administrative offices. Once every two weeks, at about 4 p.m., Julia leaves her apartment, takes a bus to the #3 train at Forest Hills, the subway to Penn Station, and the Long Island Railroad to Syosset. Then she walks 20 minutes to the agency,

arriving at about 4:15 for her 5-7 p.m. visit. Afterwards she reverses the journey, arriving home at about 10 at night.

She's been making this trip every two weeks since May 1995. She's missed only one visit in two years.

The children, now ages 10 and 12, have never been allowed to visit their mother at her home even though she has never been accused of neglect or abuse. The agency's caseworker has visited Julia's home only once in the last 18 months.

Three quarters of the foster boarding home agencies under contract with ACS have foster homes in the Bronx, a total of about 5,000 homes with a capacity of more than 10,000 children. About 100 of them serve white children like Julia's. Yet her children were placed first in Queens and then in Nassau County.

So far, Julia has managed to clear the hurdles. Because the child welfare system rarely considers geography when making a placement, however, many parents have great difficulty maintaining a close relationship with their children—and, as a result, the government terminates their parental rights. Julia herself is now preparing to fight the termination of her own parental rights in court. ■

The Geography of Prevention

Morrisania in the south central Bronx is not a community where Mayor Giuliani's quality of life initiatives have noticeably flourished. The streets are pocked with yawning ruts and lined with shuttered windows; many buildings sag in decay; and one can rarely find a pay phone that carries a dial tone. Officially designated as Community District 3—the Bronx's smallest official district—Morrisania has seen a spike in child abuse and neglect reports, rising from 49.4 per 1,000 children in 1991 to 54.2 per 1,000 in 1994, the highest ratio in the Bronx. In 1996, the number climbed to 63.8 per 1,000 children, nearly double the borough's average.

In many of the city's neediest neighborhoods, such reports have grown at an alarming rate. But the New York City Administration for Children's Services (ACS) has not expanded the preventive services that could blunt that spike. The city contracts with only four nonprofit programs to serve Morrisania (all four are responsible for other districts as well, and only one is actually located here). These four agencies opened 181 new preventive services cases in 1996. For the last several years, Community District 3 has ranked fifth for newly opened preventive service cases.

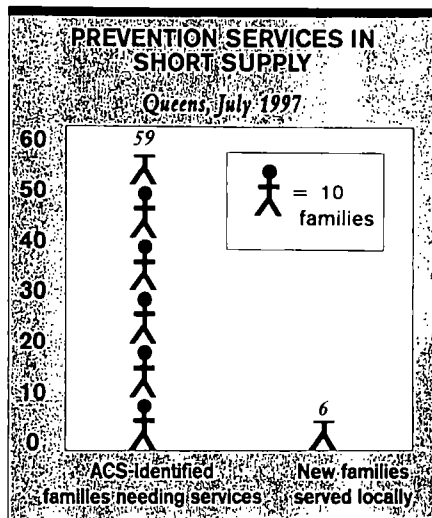
Each of the outer boroughs has the same problem with the distribution of preventive services. As the years go by and the city's population changes, so do the rates of abuse and neglect. Yet parents and children are often unable to obtain the services they need to help keep their families together.

Preventive services are the primary front-line strategy for assisting families that are close to breaking apart. Only about one-third of all reports of abuse and neglect are substantiated, and only one-third of the substantiated cases result in the removal of a child. In the majority of such cases, removal is neither warranted nor practical, and the families are often referred to preventive services such as substance abuse treatment, mental health counseling, day care, benefits assistance, after school programs or parenting-skills training.

A 1996 United Way report for the city's Human Resources Administration showed that only a small fraction of families receiving preventive services ultimately end up losing children to foster care—in 1990, for example, only 191 children out of 14,472 families that took part in city-contracted preventive programs ended up in foster care.

In Brooklyn, the Brownsville community had

the highest rate for reports of abuse and neglect in 1996 (45.6 per 1,000 children) and ranked second for the number of children placed in foster care. But it ranked 11th in new preventive service cases opened. Brownsville has just one city-contracted preventive services program within its boundaries; three others based elsewhere target Brownsville as well as other nearby districts.



The Rockaways in Queens are among the most isolated neighborhoods in New York City. In 1996, the district had 40.9 reports of abuse and neglect per 1,000 children, the highest level in Queens. Yet the Rockaways have just one city-contracted preventive service program with a capacity of 168 slots. In 1996, the area had 1,165 reported cases of neglect or abuse—and a mere 132 new preventive cases. The list of underserved communities goes on: South Beach in Staten Island (529 reports of abuse and neglect and 24 new preventive cases opened in 1996); Astoria in Queens (969 reports and 88 new cases); Canarsie in Brooklyn (868 reports and 87 new cases); Hunts Point in the Bronx (869 reports and 111 new cases).

Even so, ACS cannot solve this shortage by moving resources from one neighborhood to another. Services are in short supply citywide. From fiscal year 1996 to 1997, abuse and neglect reports in New York City shot up seven percent, from 48,702 to 52,106. But for fiscal year 1998, the city has increased preventive spending by only one percent, from \$126 million to \$127.5 million.

Most of the agencies under contract with the

city to provide preventive services in Queens, for example, are currently at or over capacity. Many have been forced to refer clients to distant communities, reports Peggy Steffann, co-chair of the Coalition of Queens Preventive Program Directors. In July 1997, the Queens ACS field office identified 59 families who needed services, but Queens programs could accommodate only six new cases.

From July 1996 to June 1997, one preventive provider that serves several community districts in Queens was forced to turn away a total of 145 families. "We always give them someone else, knowing there may not be a vacancy there either," Steffann says, adding that when families are referred to distant communities they may become frustrated and give up hope of getting any help.

If the answer is not the reallocation of existing funds to needier neighborhoods, what is? "I think there needs to be a targeted expansion of prevention into communities where there are a high number of children placed [in foster care]," offers Kathy McGlade, associate executive director of New York Foundling, which provides preventive services as one of its many programs. "We've had youngsters who've gone to [foster care] when if there were a thorough assessment and a referral to prevention that would have worked out better for the family."

Preventive service providers fear their programs are perceived as "soft services" by the Giuliani administration and some ACS officials. "It's not a soft service," McGlade says. "It is prevention of unnecessary foster care, prevention of harm." City and state leaders must recognize these services as the primary resource for any practical and effective child protection strategy and refocus resources to ensure they are available to families that can most benefit from them. *Child Welfare Watch* recommends that:

- 1 ACS must analyze its own data and expand preventive services in those communities with increased need
- 2 Most preventive service programs are currently at full utilization. Program managers, both public and contracted, should review their case duration and use specific criteria to determine appropriate closings.
- 3 In addition to reports of abuse and neglect, ACS should use other indicators to determine community needs, such as foster care placements, the percentage of children born into poverty, the infant mortality rate and the number of teen births. ■

continued from front page

Restoring the Community Connection

cases brought before them, the child's removal was not justified. Therefore, judges are returning more and more children home within a matter of weeks. The removals never should have happened in the first place.

And in the criminal courts, large numbers of women are being forced into accepting plea bargains on uninvestigated, unverified allegations of child neglect.

State statistics show that nearly one-fourth of the children removed from their parents by child welfare officials in one month (last February is the most recent data available) were

returned home within 90 days—a rate nearly double that of early 1996. Experts say such a resolution occurs most often because the

removal was not justifiable in court.

Editorial writers at the city's tabloids would likely say, "Better safe than sorry." It's a false argument. Unsubstantiated arrests and the

Nearly one-fourth of the children removed from their parents by child welfare officials last February were returned home within 90 days—a rate nearly double that of early 1996.

inappropriate removal of children are severely abusive practices in and of themselves. They are not benign, protective actions.

Community-based services need the support of community residents. One of the solutions to child abuse and neglect is an informed, involved community—not one that is fearful and mistrustful of the helping professions. By shifting the child welfare system toward criminalization, the government is alienating the very communities with which it should be building closer alliances.

The child welfare and criminal justice systems must stop criminalizing parents accused of unverified or less serious allegations of neglect. Instead, in most cases, parents should be involved in the process and respected—and a

network of comprehensive community-based services should be made available to help families remain stable and together. ■

WILL ACS GET ON-TRACK?

In December 1996, ACS Commissioner Nicholas Scoppetta issued his strategic plan for child welfare reform, "Protecting the Children of New York: A Plan of Action." The plan includes three core elements: ensuring the safety of children by shoring up child protection services; restructuring foster care; preventive and adoption services into community-based networks; and improving ACS staff training.

His proposal for community-based networks was prompted in large part by pressure from the state legislature. As part of an exchange for supporting Governor Pataki's 1995 child welfare block grant plan, Assemblyman Roger Green pushed through an amendment to state social services law that required the city to create a handful of community-based child welfare demonstration projects.

Today, Scoppetta continues to speak the language of neighborhood-based services. In a recent speech, he argued that while child protection remained his agency's principle objective, "neighborhood-based foster care is a central and critical part of our reform."

Yet most of the deadlines laid out in the ACS action plan for this community-focused restructuring have been missed. Among them:

- A September 1, 1997 deadline for establishing new standards and guidelines for neighborhood-based preventive and foster care services. These guidelines were to be integrated into this year's round of agency contracts. This has not been achieved.

- A July 1, 1997 deadline for delegating greater responsibility to city-funded foster care agencies, enabling them to make important decisions about transferring or discharging children and changing their permanency goals. This has not been achieved.

- A July 31, 1997 deadline for establishing an important performance monitoring system of random case reviews, examining contract

agency and ACS foster care cases. This has not been achieved.

- A December 1, 1997 deadline for setting up an adoption mediation system, which can help speed the adoption process. This has not been achieved, and the number of cases failing to reach important adoption milestones has increased substantially since 1996.

In addition, several other proposed initiatives relating to the development of congregate care facilities and the care of youthful offenders have not been implemented.

Another element of the restructuring is recruiting foster homes in the neighborhoods where most foster children come from. Yet ACS officials recently asked the city-funded foster care agencies to increase the number of homes they have available for placements—with no mention of the desire for a community focus.

To his credit, Scoppetta has increased the caseworker staff and improved training for front-line ACS workers. As far as improving child protective services, the city has integrated police and prosecutors more closely into the child welfare system—but has yet to create the so-called "instant response teams" involving caseworkers and others involved with families that were described in the 1996 action plan. Instead, with a police-oriented approach, ACS is removing far more children from their homes than in the past. In fiscal year 1997, the city admitted 25 percent more children to foster care than in FY 1996.

"Debates between preservationists and protectionists are largely driven by ideological and political expediency, not child welfare theory," Scoppetta wrote in his reform plan last year. "The task is not to choose between protection and preservation, but rather to achieve an integrated approach that balances the two."

Whether ACS can do so remains, for now, an open question. ■

Parents on the Periphery

Anna Livingston's home, tucked into a row of narrow houses on East 169th Street in the Bronx, is not a place of respite. A five-year-old shrieks from the other room, upset that it's too late to go to the park. A gaggle of kids on the stoop taunts a neighborhood dog. The television blares the goofus voice of Homer Simpson.

Yet for Livingston, 31, the afternoon havoc is far more welcome than the uneasy silences that filled her home a year ago. "I never thought I'd get my children back," she says, as she hoists her two-year-old son Salif onto her lap.

In 1986, after her daughter, Miyosha, was born weighing only two and a half pounds, Anna tested positive for drugs and the city took away the newborn and her two older children, placing them in kinship care with Anna's mother. Anna had been using cocaine for years, she admits today.

Twice since 1990 the children were taken away from their grandmother and placed in foster homes, once because of a fire that left the family homeless. Each time, they were returned to Anna's mother after four or five months. But in the interim, officials began the process of terminating Anna's parental rights without alerting her. "My mother was the one who told me," she says. "Later they claimed my whereabouts were unknown, which was a lie."

In 1994, when she became pregnant again, Anna was drug-free and married. When she called ACS to begin getting the rest of her children back, she says a caseworker told her, "What children? They're not your children." Anna's parental rights had been terminated without any notification, she says, and officials were pressing her mother to adopt the children. Anna admits she was wrong to have used drugs when she was pregnant. "At the time I blamed everybody but myself," she says now. "But they could have given me some type of assistance." She's angry that when she pulled her life together, the system put up roadblocks against her.

In January 1996, Anna found out about the Child Welfare Organizing Project, a parents' advocacy group that taught her to navigate the byzantine child welfare system and eventually helped her regain custody of her kids. Since then, she has become an advocate at CWOP, counseling others in their attempts to maneuver through the bureaucracy.

A CRUCIAL LINK

Anna's case is uncommon only in its resolution. Far too often, parents are shut out of any role in planning and overseeing their children's lives in foster care.

Parents didn't know where their children were placed or who their caseworker was for weeks or months after placement.

Yet an entire canon of social science research over the last 20 years shows that—with the exception of cases of serious physical, sexual or emotional abuse—the involvement of natural parents through visitation, service plan preparation, medical visits, parent-teacher conferences and similar avenues improves the foster child's emotional well-being and leads to a faster resolution (whether reunification or adoption) to the foster care situation.

Among the research findings published in a half-dozen academic journals are the following:

Foster children visited by their parents were more likely to be returned to their homes. Regular visits enabled children to preserve their attachment to their parents, maintain their own sense of identity and personal significance, retain a realistic picture of their parents, and avoid blaming themselves for their removal.

Children who were regularly visited by their parents were found to be better adjusted emotionally and showed greater gains in intelligence scores.

New York State's social service regulations require that caseworkers seek parental input in their children's service plan—except in cases where the child is targeted for adoption. And the city's Foster Care Standards require that caseworkers meet with parents twice monthly during the first three months their child is in care, and monthly thereafter. One out of three of these visits is meant to be in the parent's home.

Yet these regulations are rarely adhered to, and observers of the system—including executives of a number of nonprofit foster care agencies—concede that agency caseworkers frequently resist parent participation.

According to a May 1994 audit of case records by the New York State Comptroller's Office, parents did not participate in 79 percent of semi-annual service plan review meetings, and youth in foster care did not attend 80 percent of the time—even though this is specifically required by state regulation. In the majority of these cases, parents were not notified of these meetings.

And a focus group convened by the city's New York City Comptroller's office earlier this year found that the most common complaint of parents with children in foster care was that they didn't know where their children were placed or who their caseworker was for weeks or months after a placement had

been made. The parents said they did not receive adequate information about their rights and options nor did they have sufficient input into decisions.

Nicholas Scoppetta, commissioner of the city's Administration for Children's Services, acknowledged this shortcoming in a March 1997 memo requesting that each foster care agency contracting with the city review its procedures and improve performance in this critical area. But new data on the subject is not yet available, and most foster care agencies have yet to implement programs designed to boost parent participation.

CULTURE OF PARENT NEGLECT

"Parents are not viewed as partners or customers," charges Kathy McGlade, associate executive director of New York Foundling, one of the city's largest foster care nonprofits. The atmosphere encountered by natural parents seeking to regain their children, she says, is "daunting, unwelcoming and also quite hostile."

McGlade is trying to change this culture of parent neglect. Her agency recently began working with the Child Welfare Organizing Project to integrate parents more closely into New York Foundling's operations, giving them a greater voice not only in their own children's planning but also in the agency's overall operations and hiring practices.

Luis Medina, executive director of St. Christopher's-Jennie Clarkson Child Care

Services, has instituted even more far-reaching changes at his organization. He spearheaded a radical restructuring of the agency—one of the 64 foster care agencies under contract with the city—implementing what's known as "family-centered practice," where inclusion of natural parents is considered an essential and significant ingredient in the resolution of foster care cases. Each family case worker is furnished with a list of 30 standard practices designed to accommodate the needs and ensure the rights of parents, including stipulations that parent-child visits take place in the home of the parent or nearby, and that all parents receive a "Bill of Rights" within 48 hours of their child's placement. The agency mandates visits at least once a week, as opposed to the conventional requirement of bi-monthly visits.

Perhaps most significant are the parent advocates, each of whom at one point lost and eventually retrieved their children from foster care. Advocates accompany parents to court hearings, social services offices, drug rehabilitation programs and other community services, steering clients clear of bureaucratic and emotional pitfalls. Medina says the model evolved from the realization that, when children have been taken away, parents are made utterly powerless.

SPREADING THE WORD

This family-centered approach is not a new idea. The state's Child Welfare Reform Act of 1979 emphasized that foster care was always a temporary situation and established the central role natural parents should play throughout the process. Given the fact that 80 percent of children in foster care eventually return home, it makes sense to include parents in every step of the process. Yet throughout the child welfare system, caseworkers and administrators reflexively question why they should reach out to natural parents.

Today the new philosophy is quietly taking hold among some traditional service organizations. "We have had an agency-wide initiative to refocus our work from child-centered practice to family-centered practice," says Ruth Cohen, director of training and staff for the Jewish Child Care Association of New York, a Manhattan-based child and family service agency. The agency has restructured case conferencing so that natural parents are present at the first meeting and has held many family events where foster and natural parents can develop a relationship that should smooth the reunification process.

The philosophical shift has not been easy, says Cohen. She says many on the agency's staff of 160 social workers and clinicians initially resisted

the change. "It's meant rethinking every stage of the case," she says. "We experienced a tremendous amount of resistance from within the agency. We had staff turnover, some of which we welcomed."

Intra-agency resistance is common for others working toward family-centered practice, adds Kathy McGlade of New York Foundling. "The message is, we haven't been working with parents, we've been competing with them," she says. "It's hard for individuals who make up the system to hear that message."

Recommendations:

- 1 The Administration for Children's Services should require that every contract agency in the child welfare system submit a detailed plan for increasing the level of parental and foster child involvement in the service plan review
- 2 Standards should be established and a determination of each agency's success should be included in the city's annual evaluation under the COPEs (Contractor's Overall Performance Evaluation System) process.
- 3 Parents and foster children must be included in all advisory groups, planning committees and individual agencies' boards of directors.
- 4 Parent advocates—former parents involved in the system—should be available in each agency and through ACS. ■

MYTHS AND FACTS THE BIG PICTURE

The tragic death of Elisa Izquierdo at the hands of her mother in 1995 sent the child welfare policy pendulum swinging hard in favor of rapidly removing children from families where abuse is suspected. The case was one of many incidents of horrific child abuse that have generated headlines and shaped the public's critical perception of the child welfare system.

But the notion that all children in troubled families can be "rescued" by separating them from their parents is an extreme oversimplification.

Of all the substantiated cases of abuse and neglect addressed by ACS, fewer than 10 percent involve any kind of physical or severe emotional abuse. The remaining 90 percent involve charges of neglect against parents who have allegedly failed to care properly for their children. Most child welfare experts understand that it is emotionally far less traumatic for the child—and far more cost-effective for the taxpayer—to help most such parents become better caretakers rather than to keep their children for years in foster care. The social services that should be available to these families include child care, financial assistance, counseling, drug treatment and parenting skills education

among other things.

What's more, 80 percent of all children taken into foster care in New York City eventually return to live with their parents or relatives, according to ACS Commissioner Nicholas Scoppetta. Therefore, engaging parents in the oversight and management of their child's case—even after they have been temporarily removed from the parents' care—helps ensure parents' reinvestment in their child's life while improving their ability as caretakers, thus speeding progress toward the case's resolution.

A child welfare policy that seeks to protect children from the most abusive parents, then, is not necessarily the inverse of a policy that seeks to strengthen the parenting skills of those charged with neglect. Both policies can and should exist side by side.

But the removal policy should not obscure the importance of services. These services be available and effective for those who need them. That's why *Child Welfare Watch* recommends that these services be rooted in comprehensive community networks, immediately accessible to families and tightly linked with the city's social service apparatus, its schools, health centers and other resources. ■

Helping Families Work: Model Strategies

Child welfare does not have to be the lonely stepchild of social services, always wandering in a fog of crisis control. As many here in New York and around the country have demonstrated, the most effective child welfare programs are well integrated elements of a comprehensive system of support services, linked with local community institutions such as schools, hospitals, churches and social service organizations.

A comprehensive, community-oriented approach has proven effective in many instances in resolving serious family problems and preventing child neglect and even abuse. Such an approach can help to limit the need for long-term foster care placements to only those children caught up in the most severe cases of abuse or neglect. Those who spearhead these efforts around the country also assert that preventing long stays in foster care saves money that can be invested in the community itself.

A COMPLETE PACKAGE

Mary Paul Janchill, a sister of the Good Shepherd order who co-founded the Center for Family Life in Brooklyn's Sunset Park in 1978, has been widely recognized for her efforts to keep families together in this mostly Latino and Chinese neighborhood. What makes her program tick? Some argue that Sister Mary Paul is simply indefatigable. She and organization co-founder Sister Mary Geraldine live on-site in the center's nondescript yellow-brick headquarters on 43rd Street, and they answer calls day and night from distraught parents and children. A round-the-clock work schedule is not something most other service providers willingly replicate.

But the center's programs—and, as Sister Mary Paul calls it, its "family and community centeredness"—could serve as a template for other agencies seeking to ensconce themselves and their services in urban neighborhoods. The center's primary mission is to keep children in their homes by helping parents through counseling, crisis intervention, employment services, child care, in-home assistance and other basic preventive services, while connecting the families with local institutions that can provide

medical, legal, vocational and other assistance. Referrals to the center come from the city's Administration for Children's Services (ACS) as well as local schools, courts, churches and community groups. Other people simply walk through the door to ask for help.

A comprehensive, community-oriented approach has proven effective in many instances in preventing child neglect and even abuse.

Short-term emergency advocacy and food assistance is available at the center and from a linked network of 19 neighborhood churches. The center also offers a summer employment program for neighborhood youth, peer tutoring programs, summer day camps for younger children, and after-school activities provided in concert with Public School 134, including dance, arts and crafts, sports, tutoring, and activities for parents. The organization also oversees a small number of foster homes, all of them located in Sunset Park.

Evidence of success is substantial. Of the 456 families and 1,012 children served by the center from July 1996 through June 1997, only nine children from five families were placed in foster homes. Fifty-six of these families and 149 of the children had been referred directly by ACS and are considered the families most at-risk of losing children to foster care because they are already under the eye of the child welfare system.

In addition, 63 of the children had previously been in foster care, and none of them has since returned after their biological families received preventive services here.

"There are almost universal concerns in any community about the rearing of children, about youth development, about family functioning," says Sister Mary Paul. But in low-income neighborhoods, she explains, the support systems parents need are often not readily available. So the center makes sure all of the necessary connections are in place and the neighborhood's existing strengths are put to their best use.

"We try to think of the life of this community, of its history, its resources, what's good about it, and who has access to that good," she says. "And if they don't, we find out why."

The city bureaucracy must integrate its child protection programs with neighborhood institutions, she says. "You cannot take ACS teams into the neighborhood and say, 'Here we are. We're going to take your children, but we're now part of your community,'" she says. "Rather, the services have to be owned by the community, used by its residents—and valued by them."

ONE-STOP SHOP

Miracle Makers Inc., a Bedford-Stuyvesant-based multiservice agency founded as a church-based day care center in 1972, has taken a slightly more expansive approach to integrating a network of support programs for low-income families in Brooklyn and Queens. The minority-run and governed agency has more than two dozen satellite offices and has built its reputation, in great part, by developing strong relationships with other local organizations.

The agency is set up so that a parent or child who walks into any of the agency's offices or programs can get a referral to the appropriate services. "A parent can stop in and say, 'I'm prepared [to get my child back]. I'm ready, but I need a job. I need day care. I need housing.' We can work with them to get all that," says Miracle Makers CEO and president, Willie Wren.

The organization employs 580 men and women and serves over a thousand children and their families. Currently there are 880 children in its day care programs, 875 children from 500 families in agency-administered foster homes, and 470 HIV-positive individuals receiving counseling, advocacy and housing assistance and health referrals.

Staffers at the agency's 25 sites network with local housing projects, drug treatment centers, schools and other entities. In addition to its foster care program, Miracle Makers runs eight child care centers and a full-day Head Start program, and provides home-aid respite services, a homeless housing and assistance program, a Big Brother-Big Sister mentorship program, a drop-out prevention program, pediatric AIDS services and other medical services.

Seventy percent of the children in the Miracle Makers foster care program end up returning home to their families in 18 months or less; the remaining 30 percent are either adopted or are old enough to enter the agency's independent living program, according to Wren. The rate of children re-entering foster care once they've returned home is less than one percent, thanks in part to the agency's after-care services. When a child is discharged from foster care, the agency seeks to maintain regular contact with the family, letting them know that their caseworker and any of the agency's other services are still available.

Cuts in social service funding have hurt the agency's comprehensive model, however. Miracle Makers recently laid off 35 of its 200 caseworkers and supervisors and discontinued its Mother/Infant program, which provided advocacy and support services to prevent foster care placement for children in families dealing with homelessness, substance abuse and other problems. When it closed, the program was working with more than 90 families. "We haven't been able to follow up with the parents out there," says Wren. "Some of the kids are probably already in foster care."

THE LOS ANGELES MODEL

While New York City has not yet provided the full backing of government to expand compre-

hensive, neighborhood-based efforts to strengthen families and their access to services. Los Angeles has already established a county-wide system reducing the number of foster care placements with just this approach.

The county's Department of Children and Family Services (DCFS) has established 28 separate family-preservation networks in 17 Los Angeles neighborhoods, now covering about 80 percent of the county. Each network is based in a lead local agency, including churches and Boys and Girls clubs. Each works with other public and private agencies to provide an array of 23 different services, including foster care, day care, parent counseling, mental health services, drug treatment and housing assistance. All told, the system encompasses a total of 532 county and community organizations.

The first handful of these family preservation networks were established in March 1992. From that time through February 1996, while Los Angeles experienced a severe recession and reports of abuse and neglect increased substantially, foster care placements in neighborhoods not participating in the program went up 45 percent, from 8,058 to 11,738. In networked neighborhoods, placements rose only 11 percent, from 4,674 to 5,176. The difference is a testament to the system's success in keeping families together, says Peter Digre, superintendent of DCFS.

Since January of 1993, DCFS has also increased spending on preventive services ten-

fold, from \$4 million to \$40 million, by reallocating existing foster care funds. The agency is currently restructuring its foster care system. Digre adds, in order to emphasize geographic placement and find homes for children in or close to the neighborhoods from which they were taken.

Early 1990s research into intensive case management and family preservation programs elsewhere in the United States found they had a limited impact on preventing foster care placements. But the Los Angeles effort provides much longer-term assistance and access to a much broader array of support services than the other programs.

The networks also have access to about \$3 million in auxiliary funds for use in family emergencies. In New York City, criminal court judges report that police have arrested women on child endangerment charges for living in buildings without heat or hot water, placing their children in foster care. Digre says in LA, his networks can instead spend the money to rehouse the family—or to turn on the heat.

There may still be some hope for New York, however. ACS Commissioner Nicholas Scoppetta visited Digre last spring to examine LA's program and determine whether New York could replicate its successes. "He and his staff really impressed the daylights out of me," says Digre. "Like they wanted to grab hold and run with ideas." ■

HISTORY OF HALF-MEASURES

"Neighborhood-based services" is a phrase many in the child welfare system react to with a tired, even sarcastic, bitterness. When asked about the idea, some laugh. Others cast a wary glance, as if to say, "Oh, that again."

Few nonprofit or government child welfare officials say it's a bad idea, however. Their frustration stems from the fact that it has long been widely recognized as a good idea while proving to be a very hard one to transform into practice. Over the past few decades, a number of government and nonprofit agencies and task forces have proposed integrating child welfare services into the city's neighborhoods through existing local institutions, such as schools, hospitals, churches, day-care centers, drug treatment, employment

services and related programs. A handful have succeeded, serving small sections of communities with comprehensive social services and referrals. But in terms of broad reform for the city's most needy communities, comprehensive service models have never been realized in New York. A short history:

• **1971**—A report by the Citizens' Committee for Children of New York, "A Dream Deferred," suggested that "the basic social service system in New York be organized around the mission of helping families to do their job and cope with emergencies," and stressed that child welfare and other social services should be located in the neighborhoods where families live.

continued on page 10

continued from page 9

HISTORY OF HALF - MEASURES

• **1980**—The Mayor's Task Force on Foster Care Services' report, "Redirecting Foster Care," proposed that the Human Resources Administration's child welfare, income maintenance, case management and other pertinent services merge into a "Personal Social Service System" based in offices located in each community district.

• **1984**—The Mayor's Commission on Human Services, headed by Richard I. Beattie, tagged one of HRA's biggest flaws as the "insufficient coordination of services delivered to clients." Their report, "Outline for Action: New Directions for HRA," recommended that HRA's child welfare, child care, information and referral, and other related functions be fused together in a new Family and Children's Service Agency, which would "integrate the range of family services and simultaneously decentralize the delivery of those services to the community district level."

• **1987**—The Commission on the Year 2000, chaired by Robert F. Wagner Jr., issued a report entitled "New York Ascendant," which, among other things, recommended empowering case managers to act as client advocates and monitor the delivery of an array of services, including child care, teenage pregnancy counseling, homemaker assistance and preventive services through local institutions, such as schools, health care centers and settlement houses. "Because so much poverty is concentrated in [certain] neighborhoods," the Wagner report said, "assaults on poverty must also be concentrated in neighborhoods."

• **1988**—Agenda for Children Tomorrow (ACT), jointly founded by the New York Community Trust, United Way and The Decade of the Child, advocated creation of a broad community-based social services network. ACT's 1990 report to the mayor proposed networking conventional social services and health, mental health, juvenile justice, law enforcement, education, employment and economic development services. (ACT's director, former Child Welfare Administration Commissioner Eric Brettschneider, is currently working with ACS to develop a neighborhood model for child welfare services.)

• **1989**—The Neighborhood and Family Center Concept issued by then-HRA Commissioner Bill Grinker recommended establishing 100 family service centers "familiar with the culture, concerns, and community-based agencies of the neighborhood," each serving an average of 2,000 to 3,000 cases.

• **1990**—Governor Mario Cuomo proposed the formation of Neighborhood Based Initiatives (NBIs), which would offer a comprehensive package of state and local services, such as prenatal care, drug treatment, preventive services and family planning, all under one roof or by local referral. A variation on the NBIs, Neighborhood Based Alliances (NBAs), were established in a handful of neighborhoods statewide in 1993 by then-state

Commissioner of Social Services, Michael Dowling.

Few of these efforts have had a lasting impact. "There has never been the political will to make them work," explains James Dumpson, a senior consultant at the New York Community Trust who served as chief of the Bureau of Child Welfare under Mayor Wagner and commissioner of HRA under mayors Wagner and Beame. "I'm talking about what's at the top, what's a priority." Past initiatives have also suffered because there was never an investment of the necessary time and money, no evaluation mechanisms, and, most importantly, "they have never included the communities in the planning," he adds.

Additional elements for success have been missing in the past, according to our survey of experts in the field. These include:

- ① strong mayoral support;
- ② collaboration that includes all stakeholders, including agency officials, families, community leaders and nonprofit agencies;
- ③ collaboration between city and state agencies;
- ④ collaboration between the public and private sectors;
- ⑤ a sustained, long-term effort that will outlast the changing of administrations;
- ⑥ the acknowledgment that creating a comprehensive community-based service network requires an up-front investment of funds that will produce savings in the long run;
- ⑦ an active outreach component to engage families; and
- ⑧ a real commitment to the needs of families within their communities.

Many of the past efforts that sought to create a new arm of city government to coordinate existing services called for large up-front investments. Some advocates now propose a more basic restructuring and simplification of existing resources and services, deploying them within communities to meet needs on a local level.

The solution may also require a fundamental change in how we view child welfare as an institution and as a basic social purpose. Child welfare has evolved to become its own river of services that does not easily link up with the larger delta of social programs, explains Philip Coltoff, executive director of the Children's Aid Society. "When you say child welfare, people see it as foster care and removal, not as education or the general welfare of the child," he explains. ACS Commissioner Nicholas Scoppetta's challenge, Coltoff says, will be to "enlarge the system so that it includes services such as settlement houses, emergency rooms in hospitals, schools.... We're going to be merging two worlds that both work with the same children."

Coltoff, Brettschneider and others are optimistic about the efforts currently underway. "I don't think we've ever had this kind of commitment from the top and critical mass on the ground," Brettschneider says. "I believe that so much is percolating that something good can happen." ■

WATCHING THE NUMBERS

A five-year statistical survey: monitoring New York City's child welfare system

	FY '93	FY '94	FY '95	FY '96	FY '97
1 PROTECTIVE SERVICES					
A. Reports of abuse and neglect (The number of abuse and neglect reports reached a six-year high in Fiscal Year 1997)	52,458	49,129	47,591	52,994	53,567
B. Reports substantiated (%) (More than one-third of all reports were substantiated by investigators in Fiscal Year 1997)	29.6	29.2	25.1	33	35.6
C. Pending rate (Number of new cases assigned each month to each child protective caseworker)	6.6	7.6	6.3	6.5	7.3
D. Average child protective caseload (The city dramatically cut average caseloads in Child Protective Services in Fiscal Year 1997)	21.5	21.7	19.6	24.1	16.8
E. Number of child protective workers	806	718	711	882	909
F. Overdue determinations (%) (Percent of all reported cases in which ACS caseworker has made no timely decision whether or not to charge a parent with abuse or neglect)	DNA	DNA	37	34	26
G. Child fatalities in cases known to ACS	25	27	25	23	DNA
2 PREVENTIVE SERVICES					
A. Families receiving services	29,060	28,383	27,726	27,660	26,479
B. New families receiving services	14,405	13,675	13,156	13,172	12,616
C. Referrals from ACS (%) (Percent of all new families receiving preventive services who were referred by the city child welfare agency. The city increased its rate of referrals last year)	44	36	34	32	40
3 FOSTER CARE SERVICES					
A. Number of children admitted (Admissions to foster care soared 25 percent in Fiscal 1997)	9,809	9,022	7,949	8,912	11,158
B. Number discharged (The number of children leaving foster care for adoption, reunification or independent living dropped 10 percent in FY 1997)	11,961	11,592	12,057	11,928	10,502
C. Total foster care population (A five-year decline continued through Fiscal 1997)	48,036	46,855	43,484	42,008	41,771
D. Average years spent in foster care (The average number of years children spend in foster care reversed slightly in Fiscal 1997)	3.46	3.86	4.14	4.42	4.28
E. Children with reunification goal (%) (The percentage of children in foster care whose permanency goal is family reunification, as defined by their case manager, has increased slightly)	55.6	49.9	46.8	43.3	46.7
F. Average ACS foster care caseload (The caseload per ACS worker dropped to a five-year low in Fiscal 1997)	27	22	24	21	20
G. Percentage of siblings separated (The percentage of foster children separated from their brothers and sisters stayed roughly the same last year, despite the increase in admissions)	53	51	50	48	49
H. Recidivism rate (%) (The percentage of children who leave foster care for family reunification and then, within one year, return to foster care has declined slightly)	12	12	13	13	11
I. Percentage of foster children in kinship care (The number of children in foster care with relatives continued its steep decline in Fiscal 1997)	44.1	42.7	41.5	41.6	36.1
4 ADOPTION SERVICES					
A. Children with adoption as a goal (%) (The percentage of children in foster care targeted for adoption decreased slightly from Fiscal 1996)	36.5	41.4	43.6	43.3	41.2
B. Finalized adoptions (The number of finalized adoptions has increased more than 140 percent since 1992)	2,443	2,312	3,665	3,665	4,305
C. Children with slow adoption progress (This number reflects the percentage of children with adoption as a goal who have not reached one of four specific "adoption milestones" within the last year. It has increased significantly as more children are targeted for adoption)	DNA	DNA	58.2	60.4	62.7
5 MISCELLANEOUS					
A. Foster care funding, per child (Funding claimed by local governments per child in foster care)	\$15,520	\$14,679	\$16,617	\$16,270	\$13,070
B. State preventive funding, per child (Funding claimed by localities per child in preventive services)	\$2,731	\$2,686	\$3,093	\$3,197	\$2,695
C. Compliance with Section 153d (%) (By state law, certain tasks and milestones must be achieved within a specific time frame for each ACS case. These include proper judicial review, completion of a service plan and so on. In Fiscal 1996, 80 percent of ACS cases complied with these requirements)	87	88	84	80	DNA
D. Confidential investigations caseload (The number of children who are the subject of investigations as a result of alleged abuse and/or neglect within their foster home)	1,588	1,471	1,305	DNA	DNA

DNA means data not available

Sources: Agency for Children's Administration Selected Welfare Trends; Mayor's Management Report; New York State Department of Social Services Monitoring and Analysis Profiles; New York State Department of Social Services ACS Indicators.

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The New York Forum

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The New York Forum is an assembly of New Yorkers dedicated to the proposition that the urban problems of New York City and its adjacent region need to be re-thought and re-examined, with new solutions for problems that have defied solution until now, such as race, crime, education, literacy, child welfare, the regional economy and the efficiency and funding of government. All channels of public education need to be employed in pursuit of new solutions and improvements, along with a series of think-tank task forces and public forums.

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Race, Bias *in* & Power Child Welfare

- Between 1995 and 1997, the number of children taken from their parents and placed in foster care in New York City increased 52 percent, from 8,770 to 13,345.
- In New York City, African-American children are more than twice as likely as white children to be taken away from their parents following a confirmed report of abuse or neglect.
- One of every 10 children from Central Harlem is in foster care today.
- One of every 22 African-American children citywide is in foster care, compared with one of every 59 Latino children—and only one of every 385 white children.
- One of every four African-American foster children remains in foster care five years or more. Only one in 10 white children remains in the system as long.
- Neighborhoods where the population is largely African-American have been hardest hit by Giuliani administration budget cuts to community-based programs designed to prevent the placement of children in foster care.
- Foster care prevention programs are more readily available to white and Latino families than to African-American families, even as the need in black communities increases.
- An estimated 3 percent of the 41,198 children in foster care are white, 73 percent are African American, and fewer than 24 percent are Latino.
- Sixty-two percent of the executives and administrators of the city-contracted nonprofit foster care agencies are white, 27 percent are African American, 7.7 percent are Latino, and 3.1 percent are Asian.
- The 10 largest foster care agencies hold contracts worth a total of \$302.8 million a year, about half the entire foster care contract budget. They are all traditional, white-run charitable organizations.
- The nine foster care agencies established and operated by people of color in New York City hold contracts worth \$46.6 million a year and provide services to 4,782 children, or about 12 percent of all children in foster care.

IN THIS ISSUE:

INTRODUCTION 2

RECOMMENDATIONS 3

CHILD REMOVALS:
DISLOCATING THE BLACK FAMILY 4

POVERTY PLAYS A ROLE 6

MINORITIES MORE LIKELY TO BE
REPORTED 7

LONGER STAYS, FEWER SERVICES:
BLACKS IN FOSTER CARE 8

PREVENTIVE CUTS HAMMER BLACK
COMMUNITIES 10

WHO CONTROLS FOSTER CARE? 12

GUEST ESSAY: GAY AND LESBIAN
ADOLESCENTS IN FOSTER CARE 14

WATCHING THE NUMBERS 15

CHILD WELFARE WATCH is a joint project of the Center for an Urban Future and the New York Forum
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Foster Care Rolls in New York City Drop to Their Lowest Levels Since the 1980's

By SOMINI SENGUPTA

Following steady and sometimes sharp declines over the last several years, the number of children in foster care in New York City has fallen below what it was a decade ago, when the worst of the crack epidemic helped send the foster care population soaring.

The city's foster care population has declined by nearly 30 percent since 1991, from a record high of 49,100 to 35,200 this fall, according to the Administration for Children's Services. The reductions have helped ease the strain on a system swollen not only by the children whose families were torn apart by crack, but also by changes in local policy on child welfare.

City officials, while acknowledging that foster care populations can be influenced by a wide range of forces, say the recent, striking reductions have largely been driven by three factors: youngsters who flooded the system in the late 1980's and early 1990's are turning 18 and leaving the rolls; adoptions have increased by nearly two-thirds over the last six years, and children are not remaining in the foster care system as long.

The city officials say it is impossible to predict whether the decline will continue. But contrary to widespread fear, they have not yet seen the foster care population grow significantly in the aftermath of welfare reform. They and others are quick to say it is extremely hard to quantify how many children are entering the system for what specific reasons, and equally difficult to say how welfare reform or other policy shifts are going to play out over many years — for instance, the mayor's latest threat, to take custody of the children of homeless parents who refuse to work for their shelter.

Child welfare experts, as well as advocates who monitor the city's foster care system, say the decline in the total population is to be expected after the aberrant spikes starting around 1987, when the crack crisis began to drive many thousands of children from their homes.

They note, too, that the official count of children in foster care was inflated a decade ago in part because of a change in city policy to include children who were informally cared for by relatives as a part of the official foster care system.

And while the advocates applaud the latest declines, they insist it is too early to tell whether they signal long-term improvements in the system.

In truth, making sense of trends in foster care is confounding even to veteran students of the subject. As with the ups and downs of crime rates, it is difficult to discern exactly who or what deserves credit for the ebb and flow of the foster care population and how much of it can be attributed to demographic vagaries.

For their part, city officials, who are eager to publicize the latest drops, acknowledge that the system is shrinking in part because some youngsters are "aging out." But they also attribute the declines to a bigger budget and a more efficient agency.

Children are spending less time in the system, and adoptions are up.

The Administration for Children's Services budget has peaked to over \$2 billion a year under Nicholas Scoppetta, who became commissioner in 1996 after the widely publicized beating death of 6-year-old Elisa Izquierdo. More staff members have been hired, and the average caseload for a child protective worker has been cut by half in the last three years, Mr. Scoppetta said. Moreover, he noted in an interview last week, a record 11,000 children have been adopted in the last three years alone.

"That is a really dramatic drop in numbers," he said of the decline. "The record-setting number of adoptions is one thing we can point to."

Much of the city's decline came at a time when the foster care population nationwide was climbing — to 546,000 in 1999 from 406,000 in 1990.

But the city's experience, said an agency spokesman, Michael Khaffen, may represent a harbinger of national trends. In the last year, he said, there has been "a slight decline" in the number of children coming into foster care nationwide. The drop has been starkest in New York and Illinois, which, after Cali-

fornia, have the largest numbers of foster children. Adoptions are on the rise nationally, as well.

Those who monitor the city's foster care system are reluctant to draw sweeping conclusions about the latest trends. Still, even some of the system's most ardent critics, like Marcia Robinson Lowry, a lawyer who has sued the city on behalf of foster children for more than two decades, say there are grounds for "cautious optimism."

"There's no question that there's been more attention paid to the system in the last few years," said Ms. Lowry, executive director of Children's Rights, a national advocacy group. But she added, "I think it's too soon to judge what really is going on."

The one thing that is known now, said Fred Wulczyn, a research fellow with the Chapin Hall Center for Families at the University of Chicago, is that the foster care system has roughly reached the balance that it had before crack cocaine helped fuel its explosive growth.

"The system was stretched," said Mr. Wulczyn, who studies New York City's foster care system. "It's finally getting back to its stride on the admissions and discharges side."

That shift comes at a crucial time for city officials. Under a recent settlement of a federal class-action lawsuit, the child welfare agency is under scrutiny by an outside panel of experts. Early next year, that panel is expected to release its evaluation of how well the agency has overhauled its long-troubled foster care system.

Moreover, like other cities, New York is under considerable pressure to speed up adoptions. The Federal Adoption and Safe Families Act, which went into effect this year, requires the city to seek adoptions for all children who have spent 15 of the most recent 22 months in foster care. (The children adopted last year in the city had been in foster care for an average of 6.8 years.)

The foster care population has undergone dramatic shifts in the last two decades. The numbers had been declining steadily through the early 1980's, reaching a low of around 16,200 in 1984. Child welfare officials began to notice children of crack-addicted parents as early as 1985, when the numbers began to nudge upward. "It really hit high gear in 1987," Mr. Wulczyn said, pointing to the influx of newborns that came into the system starting that year.

The numbers spiked sharply in 1988 and 1989; the population grew by 10,000 children each of those years, peaking at 49,100 in 1991.

At the same time, a wave of children who were being cared for by relatives officially came into the system under a change in the law. In the last couple of years, many of those children have turned 18 and ventured out on their own. In general, more children are leaving the system now than in years past: 12,700 were discharged in fiscal year 1999, compared with 11,600 in 1994.

Moreover, a larger share of children leaving the system is being

1/2

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ware, software and manufacturing expertise but also mathematicians, biologists chemists and physicists — a combination of investment and skills that I.B.M. alone can tap.

In addition, the Blue Gene project should serve as a kind of recruiting tool for I.B.M. research — and perhaps serve as a venture that could lift the stature of computer-science research in general. Such a lift, according to Mr. Kennedy of Rice University, is badly needed. Computer talent, to be sure, has perhaps never been in so great demand as it is today. Yet the excitement of Internet start-ups and the lure of stock options, Mr. Kennedy notes, has meant that computer-science students increasingly shun graduate studies and advanced research.

"A few projects like this could re-establish research institutions — academic or corporate — as centers of excitement in computing," Mr. Kennedy said. "It's going to bring some of those minds back."

The frontier of computational biology is certainly a field that can stir

excitement in the research community as well as hold out the promise of being a huge industry someday. In the last few years, I.B.M. has built a 30-person team of researchers in computational biology.

I.B.M. hopes its supercomputer project will stimulate the field. "We want to attract significant interest and involvement from university researchers and from the scientific community in general," Dr. Sharon Nunes, a senior research manager, said. "If we can influence this fundamental research, it will happen faster."

The computing innovation behind Blue Gene, in essence, is to build a computer much as nature works — a triumph, if it works, of marrying simplicity and complexity.

The computer scientists at I.B.M. plan to sharply simplify the RISC (reduced instruction-set computing) architecture used in the chips that run engineering work stations and supercomputers today. The "instruction set" — the total vocabulary of machine-language instructions a computer understands — will number 57 for Blue Gene, compared with about 200 for most RISC machines.

Then, instead of putting a single microprocessor on a chip, Blue Gene will have 32 microprocessors — the calculating engines of computers — on each chip. Sixty-four such chips will be inserted on each motherboard, with eight motherboards in each of the 64 computing towers of Blue Gene.

When completed, Blue Gene will stand about six feet high, occupying a floor space of 40 feet by 40 feet at the Watson labs in Yorktown Heights, N.Y. It will have a total of about 1 million microprocessors.

Among the innovations computer scientists find most impressive about Blue Gene is that I.B.M. will place memory for storing data on the same chip as the microprocessor. In conventional computer designs, the memory for storage is separate from the processor.

Shuttling data from the memory to the processor is a major bottleneck in computers, slowing them down. Only within the last year or so, because of advances in chip making and miniaturization, has it become possible to consider putting memory and processing on the same chip in the way that I.B.M. is developing.

To attain the speeds Blue Gene seeks within five years, I.B.M. must try a new architecture of computing. The conventional wisdom holds that microprocessor speeds can theoretically double every 18 months, a phenomenon known as Moore's law, for Gordon Moore, the chip pioneer who

first observed it. With Moore's law, it would take about 15 years to achieve the speed target for Blue Gene.

"There's no way you get to where I.B.M. is heading unless you change today's computing architecture," said Arvind, a computer scientist at the Massachusetts Institute of Technology, who uses only a single name. "It looks as if they have an outstanding engineering plan. If they can execute it properly, it will be a real breakthrough."

Blue Gene's speed target is a petaflop — that is, a thousand trillion floating point operations, or calculations, each second. Such a speed would make the machine 500 times faster than the two fastest supercomputers in operation today — an I.B.M. supercomputer at the Lawrence Livermore national laboratory, and an Intel machine at the Los

A program could raise the level of digital simulations.

Alamos lab.

To translate Blue Gene's speed into a personal computer scale: if a fast PC was represented as an inch tall, the I.B.M. machine would be 20 miles high.

The hardware design of Blue Gene is innovative indeed, but the real challenge, as is so often the case in computing, will be the software. For in simplifying the hardware design for speed, the complexity of protein folding is left to the software. And the software, among other things, has to be "self-healing" so that the simulation does not grind to a halt if a few processors break down. The software must recognize the flawed processors and re-route the data.

"We have some idea how we're going to do this," said Marc Snir, a senior researcher at Watson. "But I would be lying if I said we have solved this. We do have research to do."

If all the computer wizardry works as planned, it will still take Blue Gene about a year to simulate on the computer the folding of a single protein. How long does it take the body to fold one? Less than a second.

"It is absolutely amazing the complexity of the problem and the simplicity with which the body does it every day," Ajay Royyuru, a researcher in I.B.M.'s computational biology center, noted.

2/2

By SARA ROBINSON

The market for selling merchandise over the Internet — everything from books and CD's to groceries and Pokémon toys — is already well established as e-tailers head into what is expected to be a pivotal holiday season.

But many analysts expect that 2000 will see huge growth in another kind of electronic commerce — all-digital products like documents, recorded music and videos that exist only as computer files and are delivered directly from a Web site to the consumer's hard drive.

J. P. Morgan Securities, for one, predicts that the market for digital content will reach \$275 billion by 2003.

One company well positioned to capitalize on that market is the **InterTrust Technologies Corporation** of Santa Clara, Calif., whose initial public offering in October was one of the year's hot Internet issues. The company specializes in technology that protects the copyrights of digital content by preventing illegal copying. It also tracks the material's distribution and manages the finances involved in buying and selling it.

Although InterTrust's products are still in the testing phase, the company already has deals with media heavyweights like the largest record company, **Seagram's Universal Music Group**, and the storage media division of **Bertelsmann A.G.**, which manufactures CD's and CD-ROM's. Both have agreed to use InterTrust software to protect various kinds of digital material from being illegally copied.

And its deals with content providers have led to complementary agreements with companies like **MusicMatch**, **Diamond Multimedia** and **Creative Labs** that sell software or portable devices for playing digital music.

Initially, much of the demand for InterTrust's products has been driven by the recording industry, whose urgent concerns about music piracy on the Internet led to the formation early this year of the **Secure Digital Music Initiative**. S.D.M.I. aims to produce universal standards for preventing the pirating of digital music, and it says it will not endorse any single proprietary technology. Even so, InterTrust is an active member of S.D.M.I., and its technology is widely expected to play a leading role in the music industry.

Still, InterTrust faces stiff competition. The company's activities in the digital music market, for example, put it on a collision course with other popular music-management technologies, including **Liquid Audio**, and with **Microsoft's Windows Media Audio** compression format.

In the document-publishing market, InterTrust will be bumping up against giants like **Xerox**, which has introduced a digital-rights management system based on Java, and **Hewlett-Packard**, which plans its own document-management effort. And several niche companies have developed their own protection plans.

But Victor Shear, InterTrust's chief executive, predicts that his company's broad array of patents, coupled with its focus solely on digital-rights management, will enable it to take on all comers.

"It is an area that requires a huge amount of single-minded focus," Mr. Shear said. "Having it as a side project or add-ons or dependent on other agendas will not allow for an efficient system."

Moreover, InterTrust derives power from its partnerships, as indicated by the contracts with Bertelsmann and Universal. Each company has promised to designate InterTrust's products as its preferred digital-rights management technology and to promote its adoption by other companies. Those deals "put it in position to dominate the digital distribution space for the major labels," Aram Sinnreich, an analyst at Jupiter Communications, said.

Such prospects might seem unusual,

given that InterTrust's products have yet to be tested in the marketplace. But InterTrust's partners say its technology is particularly attractive.

"What InterTrust does is facilitate business models we find very advantageous as a content company," said Larry Kenswil, president of global commerce and advanced technology at Universal. "What we've liked about them from the beginning is that they thought long and hard about how people do business."

Johann Butting, chief executive of Ber-

Technology to prevent the copying of music on discs.

telsmann's unit for digital rights management, praised InterTrust technology for working across all the company's media products. "We will go to great lengths to have as few platforms as possible," he said, "and will try to get our clients to use InterTrust."

Bertelsmann is also one of the world's leading publishers of books and magazines, and its record label, **BMG**, is second only to Universal in market share. The BMG division has not yet signed a deal with InterTrust, but analysts and industry executives say a deal may be imminent, given InterTrust's relationship with Bertelsmann.

On the manufacturing side, InterTrust recently signed a deal with **Cirrus Logic** to build security directly into chips for portable music players, cell phones, hand-held devices and home stereos.

InterTrust's digital commerce system, known as the **MetaTrust Utility**, packages content with rules governing its usage in encrypted files known as **Digi-**

Boxes, which can be downloaded from Web sites or passed among friends. To open a DigiBox file, a user must install InterTrust's **InterRights Point Software**, to be distributed by content companies.

The user's credit card information is locked into the software, and payments, specified by the usage rules of the DigiBox, are automatically deducted.

Managing payments and tracking use falls to third-party clearinghouses. **National Westminster**, **Mitsubishi** and **Reciprocal** are among the companies that have signed on as clearinghouses.

One of InterTrust's major challenges will be to maintain the security of its system. InterTrust executives acknowledge that like any such system, their security is not perfect. But they expect it to be robust enough to prevent widespread piracy.

Currently, InterTrust earns revenue only from licensing fees and software support. But in the future, the company expects that its main revenue will come from a fee ranging from 0.6 percent to 2 percent for each transaction using InterTrust technology.

InterTrust closed at \$149.6875 on Friday, more than eight times its offering price of \$18 in October. In the quarter ended Sept. 30, the company had revenue of \$363,000 and an operating loss of 25 cents a share. J. P. Morgan, which lists the stock as a buy, expects total revenue for 1999 to be \$1.4 million and that InterTrust will become profitable in late 2001.

One potential hazard is growing concern about online abuses of consumer privacy. InterTrust's technology enables publishers to collect usage data on protected content. While InterTrust does not collect this data directly, it does collect fees each time one of its partners sells demographic information.

"If they want to collect information for sale, our only requirement is that they tell users what they're doing," David Van Wie, InterTrust's international chairman, said.

adopted rather than returned home. Last year, around 30 percent of the youngsters leaving foster care were adopted, while 52 percent were returned to their birth parents or relatives. By comparison, in 1994, 21 percent of the children who left the system were adopted and 60 percent returned to birth parents or relatives.

Adoptions climbed steadily in the mid-1990's. In fiscal year 1997, a record 4,009 children were adopted, compared with 2,300 in 1994. Over the last two years, adoptions have hovered around 3,800.

When Mr. Scoppetta took over a reorganized child welfare agency in 1996 under the shadow of Elisa Izquierdo's death, many feared that the city would indiscriminately pull children from their homes to avoid similar tragic embarrassments. Indeed, the first few years of Mr. Scoppetta's tenure were characterized by aggressive enforcement. The number of children who came into foster care soared. It went from around 8,000 children in fiscal year 1995 to 10,000 in 1996 — his first year in office — to 12,000 in 1998.

But in the last year, the number fell significantly. Admissions to the system dropped to 10,200 at the end of fiscal year 1999.

Finally, part of the decline in the overall foster care population seems

also to be driven by shorter stays in the system. The median length of stay for youngsters who came into foster care in 1995 — the most recent year for which the agency has available figures — was 1.76 years, down from 2.82 years for children who came into the system in 1990.

If unpredictable outside forces like crack addiction fueled the anomalous growth of a decade ago, it is all but impossible to divine what the next decade holds. Already, dire predictions have been made about how the new federally mandated time limits on welfare benefits will flood the foster care system. That does not seem to have happened yet. Then again, it is not yet possible to measure the full impact of welfare reform — particularly because today's robust economy can cushion the blow.

"It's still too early to tell whether welfare reform will increase or decrease the number of kids in care," said David Tobis, director of the Center for the Study of Family Policy at Hunter College. "The big factor is what happens to the economy."

Moreover, no one is either pleased or satisfied that, despite the recent reductions, more than 35,000 children remain in foster care because of worries about their well-being. It is, everyone agrees, an enormous and unhealthy number.

2/2

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COMPARISON OF ADOPTION 2002 PROPOSALS AND ADOPTION LAW AS ENACTED

Topic	Adoption 2002 Report	Law as Passed (enrolled version of H.R. 867)
Numerical Targets to Double Adoptions	Work with States on numerical goals and targets to double the number of adoptions and other permanent placements by 2002.	No additional legislative authority needed.
Technical Assistance	Provide technical assistance to State agencies, courts and communities to improve the timeliness of permanency decisions and to increase the number of adoptions and other permanent placements (requested \$10 million per year).	Authorized (but not appropriated) at \$10 million per year for each year FY98 through 2000 (section 201(a)). Specific priority topics for TA are specified, and half the funds must be spent on TA for courts to improve their handling of adoption issues.
Financial Incentives for Increased Adoptions	Financial incentives to states to increase the number of adoptions from the public child welfare system (per child bonuses).	Authorized (but not appropriated) at \$20 million per year for each year FY1999 through 2003 (section 201(a)). The discretionary spending cap is adjusted for amounts that may in the future be appropriated for these purposes. Bonuses are in the amounts requested by the Administration (\$4000 per adoption plus an additional \$2000 for each special needs adoption.)
MEPA Implementation	Continued aggressive implementation of the Multiethnic Placement Act, as amended.	No additional legislative authority needed.
State-by-State Progress Report	Publish an annual State-by-State report on success in meeting numerical targets for adoption.	Requires HHS to develop outcome measures and a rating system for child welfare services, based as much as possible on AFCARS data. Requires an annual report to Congress based on such data beginning in May 1999. In addition, the law requires that HHS develop a performance based incentive system for IV-B and IV-E payments (feasibility study due 6 months after enactment and final report due 15 months after enactment). All of these efforts are to be undertaken in consultation with outside partners (section 203).
Recognize Success	Recognize successful state efforts.	No additional legislative authority needed.

Barrier Removal Grants	Provide States with funding to identify and remove barriers to permanency and adoption.	No provision for such grants, although child welfare waiver demonstrations on this topic are explicitly encouraged.
Hearing Timelines	Clarify the purpose of dispositional hearings by renaming them permanency planning hearings and shorten the timeframe until such a hearing is required from 18 months to 12 months. A variety of other steps/approaches to improve timeliness are discussed, but no specific timelines for terminations of parental rights (TPRs) are proposed.	Renames the hearings as permanency hearings and moves them to no later than 12 months after a child enters foster care (section 302). In addition, provides that the state shall file to terminate parental rights for any child in foster care 15 of the past 22 months, for abandoned infants and for children whose parents have been determined by a court of competent jurisdiction to have committed any of a series of specified offenses against the child or a sibling. Exceptions are provided for children in kinship care, cases where the state agency has documented a compelling reason why such action would not be in the child's best interests, or where the state has not provided appropriate services in cases where reasonable efforts are required (section 103). For children whose parents have committed an offense which obviates the need for reasonable efforts, a permanency hearing is required within 30 days (section 101).
Reasonable Efforts Clarifications on Safety	Clarify "reasonable efforts" requirements to emphasize that child health and safety should be the paramount concern in making child welfare decisions and to illustrate circumstances in which reunification is not appropriate.	Adds language on child health/safety and reasonable efforts along the lines envisioned in Adoption 2002 and specifies several types of cases in which reasonable efforts are not required (section 101). Also adds safety language to provisions regarding the contents of case plans and requirements for case reviews (section 102).
Reasonable Efforts Regarding Adoption	Establish a reasonable efforts requirement to secure an adoptive home when reunification has been ruled out.	Requires reasonable efforts to find an adoptive home or other permanent living arrangement for children whose permanency plan is other than return home (section 101) and requires documentation of such efforts (section 107). Clarifies that efforts toward adoption may be made concurrently with reunification efforts.

Use of FPLS in Child Welfare Cases	Encourage States to use the Federal Parent Locator Service to locate absent parents and relatives who might provide a permanent home for the child and to terminate parental rights when appropriate.	Specific authority to use the FPLS for these purposes is provided (section 105).
Child Welfare Waivers	Increase the number of child welfare demonstration waivers.	The Secretary may authorize 10 demonstration projects per year for each of FYs 1998-2001. The Secretary is particularly required to consider applications regarding the removal of barriers to adoption, regarding substance abuse treatment and placing children in residential facilities with their mothers, and regarding kinship care. The Secretary further is granted the authority to extend the duration of demonstration projects beyond their initial 5 year period (section 301).
Kinship Care	Suggests this is an issue that needs further study. Commits to establishing kinship demonstration projects as provided for in the reauthorized CAPTA legislation, and through child welfare demonstration waivers.	HHS must produce a draft report on kinship care which is to be reviewed by an advisory panel on kinship care (to be convened by June 1, 1998), and then issue a final report by June 1, 1999 (section 303). The advisory panel's primary purpose is to review the Secretary's draft report. See also mention of kinship care under the topic of child welfare waivers.
Interjurisdictional Issues	Proposes technical assistance to support the development of collaboratives that encourage placements across geographical boundaries.	The law explicitly prohibits states from delaying or denying adoptive placements outside State or county jurisdictional lines. In addition, title IV-E state plan requirements are amended to include an assurance that the state shall develop plans for the effective use of cross-jurisdictional resources. The GAO is also required to study the issue and to submit a report to Congress within one year of the date of enactment (section 202).
Notice of Hearings and Right to Be Heard for Foster Parents, Preadoptive Parents, or other Caretakers	Not addressed.	Foster parents, preadoptive parents, and relative caretakers of children must receive notice of and an opportunity to be heard at reviews and hearings regarding the child's status. They do not, however, become a party to the case (section 104).

Criminal Background Checks	Not addressed.	Each state's IV-E plan must include procedures for conducting criminal background checks for foster parents and adoptive parents. For some crimes, approval would be denied if the crime were committed during the last five years, while for other crimes, approval would be denied regardless of the date of the criminal act. States may opt out of this provision (section 106).
Clarification of Independent Living Services Eligibility	Not addressed.	Clarifies that children shall continue to be eligible for independent living services even if they have accumulated assets up to \$5,000 which would otherwise be counted for eligibility purposes (section 304).
Family Preservation and Support	Not addressed, except to note the need for family services.	Reauthorizes Family Preservation and Support (FP/S) for three years (FY99 through FY2001) at essentially the same levels as in current law with minor increases each year. The program is renamed "Promoting Safe and Stable Families" and two additional categories of services are added, time-limited family reunification services and adoption promotion and support services. In addition, the state plans for the program must include an assurance that the safety of the child shall be of paramount concern in services provided under this program (section 305).
Health Insurance Coverage for Adopted Special Needs Children	Not addressed.	States' IV-E plans must provide for health insurance coverage for special needs children for whom there is a non-IV-E adoption assistance agreement in place (IV-E children already are eligible for Medicaid). Such coverage may be provided either through Medicaid or other means but must be comparable to Medicaid coverage. States may make cost sharing arrangements with adoptive parents for such coverage, taking into account adoptive parents' circumstances and the child's needs (section 306)
IV-E Eligibility for Special Needs Children Whose Adoptions Disrupt	Not addressed.	If a child placed in an adoptive home under a IV-E adoption assistance agreement comes back into the care of the state, the child's IV-E eligibility shall continue (section 307).

Quality Guidelines	Not addressed.	Each state shall, by January 1, 1999, develop and implement standards assuring that children are provided with quality services that protect their health and safety (section 308). This becomes a IV-E plan requirement.
Preservation of Reasonable Parenting	Not addressed.	Clarifies that nothing in this act is intended to intrude upon reasonable methods of parenting (section 401).
Standby Guardianships	Not addressed.	Provides a sense of the Congress that states should have standby guardianship laws (section 403).
Welfare Contingency Fund	Not addressed.	In order to pay for the various provisions of the bill, the welfare contingency fund is reduced by \$40 million spread over 5 years. This includes \$2 million in FY98, \$9 million in FY99, \$16 million in FY2000 and \$13 million in FY2001.
Report to Ways and Means and Finance Committees on the Coordination of Substance Abuse and Child Protective Services	Not addressed except to note the importance of substance abuse issues to the child protection field and the need for substance abuse services for families in the child welfare system.	Requires HHS to submit a report to Congress on this topic by one year after the date of enactment (section 405).
Sense of Congress Regarding the Purchase of American-Made Equipment and Products	Not addressed.	To the extent practicable all equipment and products purchased with funds under this act should be American-made (section 406).