

TESTIMONY OF:

Sister Josephine Murphy, D.C.
Administrator of St. Ann's Infant and Maternity Home

Before the
Subcommittee on Human Resources
of the Committee on Ways and Means

June 27, 1996

St. Ann's Infant and Maternity Home
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Chairman Shaw and other distinguished Members of the Subcommittee on Human Resources:

Thank you for inviting me to testify before you today as you examine whether the provisions of The Adoption Assistance and Child Welfare Act of 1980 promote adoption in appropriate cases. My name is Sr. Josephine Murphy and I am a Daughter of Charity. I am also the administrator of St. Ann's Infant and Maternity Home.

St. Ann's Infant and Maternity Home began in 1860 and was incorporated in 1863. The Acts of Incorporation were signed by Abraham Lincoln. It began as an infant and maternity home and remains that at present. From its inception until the present St. Ann's has been a non-profit corporation serving without regard to race or religion. At present it cares for 57 abused/abandoned/neglected children from the District and Maryland. Of these 57 children, 42 are three years of age or younger. Children are accepted 24 hours a day, 365 days a year on an emergency placement basis. There are no requirements except that there is a bed empty. St. Ann's also serves 32 pregnant and parenting single, adolescent young women in their prenatal program and mother/baby program. Infant and regular day care is another program offered to 85 families in the community. We are supported by fees from the agencies that use our services, United Way, Foundations, business corporations and many other friends and benefactors.

I received my M.S.W. from Virginia Commonwealth University and have worked in child care homes as a child care worker or administrator for 40 years. I have been administrator of St. Ann's for eight years.

My testimony will center around some specific cases, some of the problems I see concerning The Adoption Assistance and Child Welfare Act of 1980 and some of my own views about the terrible abuse and neglect of our children.

"Please don't send me home!" This is the cry we have heard more than once at St. Ann's Infant and Maternity Home. It is the cry of little Billy who at age three has suffered severe abuse over a long period of time. When he was just a year and a half old he was taken to the hospital for treatment of third degree burns to the heel and sole of his right foot. He also had a hematoma on the back of his head and bruises on his right jaw. In addition, X-rays revealed old skull fractures. The injuries were inconsistent with the explanation provided by his mother. Nonetheless he was returned home and came to St. Ann's another year and a half later after again going to the hospital and being seen for scrotal swelling and bruises. His buttocks were bruised and he complained of his stomach aching. He also had a rectal fissure and it took almost a year working with the doctors before he had normal bowel movements again. My question is - why was he returned home in the first place after the abuse he had suffered at age one and a half?

"Please don't send me home!" Billy's plea should be a trumpet call to all of us. Never should we send them home - if home means more abuse and neglect. I firmly believe that child protection should take precedence over family reunification. Children need a sense of permanency, some stability and consistency in their lives. They need to be protected and given the same basic right to life, liberty and the pursuit of happiness that the rest of us have. Our legal system that is so quick to advocate and demand through The Adoption Assistance and Child Welfare Act of 1980 that children be returned to their homes fails to take sufficient time to examine whether family reunification is appropriate in the majority of child abuse cases. Many times I believe, if we are looking to child protection, that it is not. The legal system, and I include Corporation Counsel in the legal system, should take a good, realistic look at what is happening to children and have the intestinal fortitude, when it is needed, to terminate parental rights and place these children in adoption. The time has come, and in my opinion is long overdue, for the legal system to accept its share of the blame for the continuity of the terrible abuse and neglect that we see in the lives of the youngest members of society coming into care today. Many times the courts assume that the best interests of the child subsist within the best interests of the parent. This is wrong! The best interest of the child or if you will, the safety of the child, takes precedence over the best interest of the parent. I am a proponent of long-term OUT-OF-HOME placement for children until a FULL INVESTIGATION is completed and SUFFICIENT REHABILITATION has taken place. The parent should be confronted with the fact

that this rehabilitation takes place within a stipulated time or the child will be placed in adoption. This stipulated time should not drag on for years but the case should be reviewed in six months to see if the parent is really making efforts to change and accept responsibility. Babies should not have to wait years for this to take place!

I am aware that the present trend of our child welfare system is toward family reunification, believing that every family can be "fixed" and that the biological family is ALWAYS the best place to raise a child. I have listened to too many children and seen too many badly abused babies to ever believe this. I do believe that there is a placement of choice for every child. This may be back in their own homes if investigation proves them to be safe and rehabilitation has taken place. It could be in foster care, in adoption or in long-term homes for children. Children entering the system today, for the most part, are extremely traumatized by physical/sexual abuse. Placing them back in their own abusive homes or in unsuccessful foster placement only damages them further.

The best thing for some abused/neglected children is to go into a long-term facility which is a neutral placement where they don't have to relate immediately to another parent substitute figure. I especially think this is helpful for teenagers who have been so horribly abused for so many years that they no longer trust anyone. Mary one of the girls in our maternity program had a horrible early childhood but did well at St. Ann's. Her mother was a drug addict with many run-ins with the law who abandoned her at three weeks of age. Her father was an alcoholic who was given custody of Mary and soon remarried, letting the child believe the woman was her biological mother. He was abusive to both his wife and daughter and a divorce soon took place. Mary was devastated when she learned this woman was not her mother and was leaving her. At age eleven Mary began taking care of herself and doing what she could to run the house. Her father suddenly stopped drinking but then began to sexually abuse her. She went to a counselor at school for help and her father was put in jail. She was placed in the home of her father's former wife and that placement did not last long. From there she went into foster care. Mary says of her foster mother, "It was hell living with her". She ran away and went from shelter homes to girls' homes. She developed an "I don't care" attitude. She got pregnant and her boy friend left her - alone and with no place to go. She knew of St. Ann's and sought help there. Mary did well in both the maternity and mother/baby programs, finished school and got a scholarship to college. Many young people, like Mary, wind up in the shuffle of the welfare system, going from one home to another feeling rejected each time they are moved, feeling unwanted, unloved, and that nobody has time for them. In general they feel they are a nuisance to everybody and that the world wouldn't be in the mess it's in if they had never been born. Hence the increased rate of teen suicides. However, over the years I've seen many desperate teens blossom when placed in long-term care and given a chance to stabilize and feel they belong.

As I reflect on what's happening to these adolescents and young children today I come to one unavoidable conclusion: They are present day slaves. I hate to use the word since I thought slavery had ended in our country years ago. I was mistaken. It has just changed its focus. Those in slavery today are our children.

I see it in their eyes when they come into our home. It's a heart-wrenching look of defeat and longing. I can't explain it, but I've seen it hundreds of times. It's become a constant image in my prayer - the eyes of Christ in this distressing disguise. It's what I imagine the look of the slave was, this child with no hope.

They are the little chattels of their mothers who hold the power of life or death over them. They are the slaves of people's perversions, whims and frustrations. They are beaten, burned, bartered, sold, used and abused - just as the slaves of years ago. I worked with a young girl in Virginia who had been traded, like a slave, by her mother for a transistor radio when she was just a few weeks old. In a few months her new mother did not want her anymore and gave her up to the welfare department. She should have been adopted as an infant but instead spent all of her life in the system going from placement to placement.

We see these little slaves often at St. Ann's. Many of them are sexually exploited to gratify the passions of adults who are obsessed with sex;Alice, a little two year old who had to have stitches for vaginal lacerations because she had been raped.

Kathy, two weeks old, came to us with gonorrhea of the throat.

Pam who at 15 months of age suffered from venereal warts. She had been sexually abused by her mother's boyfriend and needed surgery because of it. Surgery was scheduled but before it took place she was discharged to her mother and right back to the same situation.

They are burned, oh yes, they are burned. That's what happened to Ben who came in with both hands so badly burned that we sent him to the hospital because the nurse on duty thought his hands were infected. He was hospitalized for six days while the hospital staff worked on his hands. When he came back to us we were told by the hospital that they were not water burns but that his hands had been held over an open fire. When his mother came the following week to visit him he took one look at her and raced off down the hall screaming. He and his brother both accused their mother of abuse, and the aunt admitted that there had been long-term sexual activity between the mother and the boys. Yet they were released to their aunt who had been around while all this was going on and done nothing.

Children today are beaten also, but no longer with a hair brush as in years gone by. The implement of abuse now is the electric cord because "loving" mothers and their boyfriends have found out that it inflicts much more pain and the pain lasts a lot longer. Tommy came in at age seven with his back all torn up in this manner. It took months to heal his "mommy sores" as he called them. As he prepared to go home he wanted to know why we were sending him back when we knew what was going to happen to him. Why indeed! I wish I had been able to come up with a good answer but all I could say was that we were not sending him home but had received a court order which meant the judge had ordered us to send him home. It's nothing but slavery!

This does not happen with every child, but it happens too often for any of us to be complacent. I'm not speaking as a burned out social worker but as one who has become incensed about the plight of children today. We freed the slaves once; it's time we freed the new slaves by making child protection and nurturing the number one priority in our courts, schools and homes. If we do then maybe we won't be trying eight and ten year old children as adults for murder. I don't think age matters, it's just getting big enough and strong enough to do the job. We had a seven year old little boy at St. Ann's who was looking forward to the day he would be big enough to kill his mother's boyfriend who beat him and his younger brothers and little sister and sexually abused them also. They have been back to St. Ann's twice and still the goal is family reunification. Why do we leave children with mothers who can't or won't protect them? Our courts are rather naive to think these moms are going to give up their boyfriends. Maybe we need to clear up the violence in our homes before we can clear up the violence on our streets!

Children are born with a clean slate, all behavior is learned, so what we are seeing played out in our homes, our schools, and our streets today is what they have learned from us - the families, schools, churches, the society that has taught them so well. Children are very quick to learn the bad as well as the good and we are finding that out to our dismay. This is not a minority/white issue, it is not a poor/wealthy issue. It hits all races and classes because our traditions and values, our families have collapsed. Our children are growing up scared, daily exposed to violence and with no support or protection from family because family does not exist for many children. Their family is just a group of people living in the same house and many times these people change rather frequently.

Children have been devalued in our country to the point that their right to "life and liberty" plays second fiddle to their parents' right to the "pursuit of happiness" in whatever form that may take. This devaluing of children occurred gradually and went unnoticed. It began, I believe, when motherhood lost its rightful place as the greatest vocation on earth and fathers became a thing of the past for many children. It began when parents stopped loving and enjoying their children, when they became so caught up in their own pleasureable

pursuits they couldn't even see their children's very basic needs. It began when parents had no time for their children and began to substitute "quality" time for "quantity" time. I had a teenage boy tell me that his parents had given him everything he ever wanted since he had been born except five minutes of their time. He added that he would trade it all in for just a little of their time. We need to speak up for motherhood again whether it be the birth mother, the adoptive mother or the foster mother. What is more important than forming the heart, mind and soul of a child? What profession offers such a challenge or such a great reward?

Every child deserves freedom, the freedom that comes from a happy childhood; freedom from the fear of physical and sexual abuse, freedom from the fear of hunger, freedom from adult responsibilities and worries. Yes, they assume these at a very young age also. They have to just to survive, We took in a little five year old girl and her baby sister and the five year old told us it was hard to realize she didn't have to take care of "her baby" anymore because she had done it since her sister was born. She added that she had also taken care of her mother who, as the child said, "stayed stoned from morning until night". She was also an accomplished thief which means someone had taught her well and she was a quick learner. So we wonder why our jails hold so many juvenile offenders! This little girl is only one among many, believe me. Their emancipation requires our participation in the fight for their basic rights. We have no problem with putting orphans up for adoption. Yet many of the children described above are orphans of the living. Though their parents are alive they are too overwhelmed with their own problems - drugs, alcohol, prostitution and crime - to function as parents in the raising of their children. This gives rise to the terrible abuse and neglect we are seeing today. We wonder about children killing at younger and younger ages. Maybe it's a case of those who have been so horribly neglected and abused finally turning on a society that has treated them so savagely and could care less. Our children are lonely afraid and pushed into adult lives at too early an age. Many come to St. Ann's knowing all about drugs and hiding from the police and living on the streets but they don't know how to jump rope, play dodge ball or ride a bike. Maybe it's time to spend QUANTITY time with them and turn some of them around. Or would we rather continue to leave them to the drug dealers, the rappers and their rock group idols. Believe me these people have plenty of time for them, not because they love them or care about them but because these children represent the almighty dollar to them. It's time to take back the souls of our children and give them all back their childhood. For many it's already too late but adoption could be the road for those that still have a chance.

Now is the time to end this terrible abuse. It's not just stress or the lack of money or health care or the lack of affordable day care that's causing all this. It's our lack of putting some effort into raising children instead of just letting them grow up which is much easier. It's our watering down our educational system until our children are bored to tears and find no exhilaration in learning. It's our making a god of sex and not teaching our children it's only a piece of the total love story commitment. We don't need any more reports or congressional hearings. We know the sad statistics. What we do need is for enough of us to get angry, really and truly angry enough to do something about the terrible injustice that is being done to children by returning them to abusive homes and losing another generation to violence and hate. We have to get angry enough to let our legal system and our welfare departments know we won't put up with child slavery any longer. We need to tell our political leaders they should not be talking about human rights issues in any other country until they clean up their own backyard, the backyard that holds the skeletons of too many neglected little bodies already.

I am aware of all the "we care about kids" rhetoric, but I can't help wondering: "Do we really?" Do we care that 1,271 children died last year as a result of abuse and neglect. Do we care that 88% of the victims were younger than five years of age? Do we care that 46% of the victims were one year old or younger? Do we care that most of the deaths were at the hands of parents or caretakers, the very people responsible for keeping the children safe.

Congress and our legal system are set up to protect the rights of ALL our citizens; and children even though they cannot vote, are citizens too. Therefore, those institutions should be the first to take action on behalf of our children in crisis. I feel they need to address the following issues:

THE FAMILY REUNIFICATION ACT should be clarified or changed to put the best interest of the child (child safety) before the rights of the parent. This was an act of Congress, so Congress needs to define what constitutes a family and realize that not every family can be fixed. The rhetoric concerning this Act is great, but the reality for abused children is horrible and cries to heaven for vengeance.

OUR LEGAL SYSTEM must stop sending children right back to abusive and dysfunctional home situations before the home is THOROUGHLY INVESTIGATED and some degree of REHABILITATION has occurred. To really insure the safety of the child this should mean that real change has been brought about not just promises made. Our judges, lawyers and social workers have to face the fact that you don't cure a drug addict in a week or a month, and stop acting like this is possible.

OUR LEGAL SYSTEM should set a time limit, a short one, for abused/neglected children to be shuffled around before terminating parental rights and placing those children in adoption. Thousand of children stay in the system for years because judges, lawyers and social workers won't terminate parental rights and give the children a chance at some degree of permanency, stability and normalacy in their lives. Babies need to be adopted when they are babies not when they are older and their little personalities and self concepts have been destroyed.

OUR LEGAL SYSTEM needs to take stronger steps to pursue and prosecute those who murder and sexually abuse children and those who permit it to be done. According to a recently released Justice Department study, most of the crimes against children took place in the home of the assailant or victim. More than three million children nationwide were reported abused/neglected in 1994. Then, of course, there are the tens of thousands of other crimes against children that never get reported or prosecuted. It's easy enough to say children are abused but stop for a moment and think of the pain they endure and have to endure over and over again. Do we want any child to go through this?

Let me say that throughout this article I am talking about severe abuse and neglect and sexual abuse, the kind of abuse that children should never have to endure a second time. I am also talking about a parent who is probably never going to change (we had one child whose mother had been in 19 drug treatment programs), mothers who permit their boyfriends to physically and sexually abuse their children and either take part in the abuse or do nothing to protect the child. There has to be REAL CHANGE. Seven to thirty days in drug rehabilitation and staying clean for a few weeks, going to counseling sessions, coming to St. Ann's on visiting days and getting your little slip in saying you came, none of these things do I see as making a difference if change doesn't occur and the boyfriend isn't really out of the house for good. Promises and talk don't mean anything and don't do anything to change the person or the situation. Neither do I feel children have to be returned so mom can keep her housing. We had a very young baby retruned for this reason and came back to us three days later because mom had taken him home and left him locked the apartment alone from Friday until Sunday when concerned neighbors called St. Ann's and were told to notify the welfare department. That baby hadn't been fed or changed during all that time but mom had her apartment. So that's what child protection is all about!

Finally I ask that you DON'T SAY THE WORD MONEY TO ME. It simply infuriates me when we have money for everything else we want including sports stadiums but are always counting the cost of raising children. If it costs so much then how come many poor people raise their children very well on very little. We can't place a money value on our children because each and everyone of them is priceless. I would say though that the money will be spent either when they are older and occupying our jails and prisons. Abused and neglected children are growing up with hate and anger in their hearts and in the future they will feed our prison census and I think we are already beginning to see. All the money in the world won't help if we don't do something to turn the tide for our children who are drowning in a sea of abuse and neglect that stems from drugs, alcohol, sexual promiscuity and the lack of any family support.

And so I question: When will Congress look at the Family Reunification Act with a "children come first" attitude? When will our legal system hold itself accountable for what's happening to our children instead of blaming it all on the welfare system? When will we as a society see that it is better for our children to worship God than drugs, money and sex? When will we be more concerned with building and updating our educational system than our sports arenas? When will we realize that our children need the loving support of a permanent family? When will we realize that children who are abused and neglected are likely to end on a path that leads to jail? When will we begin to do more than meet and talk?

We say we love children. We say they are the future of our nation. We say they are the most vulnerable members of our society. If we believe it, then we should put some action as well as our money where our mouth is. I'm tired of all the rhetoric, the studies, the meetings and the statistics while our children's lives are wasted and their bodies and spirits broken.

I beg you to please take some ACTION. Thank you for this opportunity.

Committee: Subcommittee on Human Resources of the Committee on Ways and Means
Thursday, June 27th, 1995
Room 1100 Longworth House Office Building, 1:00 p.m.

Chairperson: B. Clay Shaw, Jr.

Testimony Submitted by: Robert Dean, Foster Parent from Omaha Nebraska

I would like to thank you, Chairman Shaw, Ladies, and Gentlemen of the Subcommittee on Human resources of the Committee on Ways and Means for inviting me to speak on this issue.

My name is Robert Dean. I am a foster parent to a little girl who is five years old who has been in our home for almost 3 years. I have seen first hand how a stable loving home has helped this child grow up happy and healthy. I have also seen the pain and confusion this child is suffering while she waits for her mother to prove she can parent this child. She has waited over half her life for permanency; a place to call home with certainty.

For the purpose of this testimony I will refer to her as Ann.

Ann came to our house in late March, 1993. She was almost 2 years of age. She was not yet speaking more than 5 or 6 words and kept a bottle in her mouth at all times. Ann did not know how to use silverware, but could operate a television remote easily. On her first day with us, she sat on the floor, grabbed a bag of chips and can of pop from the refrigerator and pointed to the television and said "watch".

Ann was a scared, shy, 'unbonded' toddler. Prior to being in foster care, she was moved several times, running from police and crawling out of windows with her mother. She was repeatedly left with her mother's acquaintances or relatives too weak to properly care for her. Ann came into the system when her mother left her with a friend and did not return after a couple of weeks. The friend took Ann to her great-grandmother's (Ann's) home. Ann was dropped off without food, clothing, diapers, or any knowledge of where her mother was at. After two months and several unsuccessful attempts to locate her grand-daughter, Ann's great-grandmother called the police.

Ann was placed in our home and we immediately consulted a physician for an uncontrollable, deep cough. We were told that Ann had an extraordinary high level of lead in her blood, 45 (normal range is under 10). The physician stated this is typical for a child that had lived in older neighborhoods, where lead-based paint was chipping off the walls and a baby could put these in their mouth; especially an unsupervised, malnourished, homeless child.

Ann was returned to her mother, Debbie, on 4-6-93; even though she had been arrested less than 1 week before for felony shoplifting. On 8-4-93, Ann returned to our home as the caseworker had found out Debbie was using drugs and alcohol while she was pregnant with her second child, due in early October.

Debbie gave birth to Gloria in September of 1993. At the time of the birth, both Gloria and her mother tested positive for cocaine. Gloria was born 5 weeks premature. Gloria was placed in out-of-home care once she was able to leave the hospital. Gloria has Osteopenia (low bone density) and Hepatitis of the liver. She continues to have problems with her bowels, ears, liver, susceptibility to infection, and food intolerance. She requires careful medical monitoring as any virus, infection, and/or dietary change could place her medical health in jeopardy. Ann was diagnosed as possible FAE, as Debbie admitted to drinking daily while pregnant with her.

Debbie was ordered in juvenile court to complete many services to address her drug addiction, her parenting skills, her ability to find stable legal employment, and her ability to provide a home for herself and her daughters. She was also ordered to attend weekly supervised visits with her daughter.

Debbie did not comply with any of these services and at first she abandoned Ann. Since then her visits with Ann have been sporadic, sometimes she would not show up, other times she was incarcerated.

There is no father's name listed on the birth certificate. However, a man identified as Ann's father, Mike, petitioned the court to intervene in the case in October of 1995. Ann had been in out-of-home care for 2 1/2 years. Paternity has never been established by the court or by genetic tests. A home study on Mike's residence has not been completed. Mike has not completed a bonding assessment nor does he pay child support. In spite of these facts, in 12-95, Mike was authorized by the court to have weekly unsupervised visits for 7 hours. In February of 1996 we learned that Mike had no intentions of pursuing custody or attending further court hearings. Visitation with Mike continues.

Meanwhile, Ann has blossomed while in foster care. She is an outgoing, charming, and helpful 5 year old child. She has quickly become a child with a lot of friends at pre-school/daycare and one who cares deeply for others' feelings. She has developed a sense of pride in doing the right thing and is always eager to please. She has a charming sense of humor and is unbelievably bright.

She has learned the alphabet and can spell and write her own name as well as many others from memory. She enjoys reading, playing games, singing and dancing - so much so, we have enrolled her in a ballet and tap dance class for the last 2 years. Although she can be stubborn at times, testing her new found independence, she will think about her actions and sweetly apologize minutes later.

For seven months, between 2-95 and 9-95, Debbie abandoned the children, she contacted the case manager twice, but left no phone number and did not participate in Court ordered services.

Due to the two years (24 months) of non-compliance with the reunification plan by the mother, the Court on 4-4-95, the case manager on 9-22-95 and the guardian ad litem (the child's lawyer) on 10-16-95 all recommended that termination of parental rights be pursued. The plan for Ann was changed from Reunification to Adoption in September of 1995.

Debbie enrolled in a one-year, New Life Rehabilitation Program on 9-3-95. The program includes a class twice daily, a 12 step program twice weekly, weekly counseling; and weekly parenting classes. She has maintained this program, she completed a 12 week parenting class with Family Services in 2-96 and participates in 5 AA meetings weekly.

Debbie stated she began to comply with Court ordered services in 9-95 because she was afraid of losing her children. She has reportedly been drug free since this time. It has also been reported that Debbie was incarcerated for prostitution just weeks before she enrolled in the program. Currently, the majority of Debbie's time is spent in structured activities, with a network of strong support to assist her. Even so, the caseworker has admitted that she loses her temper with him and is very impatient. Debbie has not yet shown she can be self-sufficient, maintain a stable life-style, support herself and third her baby, while maintaining her sobriety.

Debbie's new son presently lives with her in a 2 bedroom apartment. She receives ADC (amount defined by the number of children living with her), housing assistance, Medicaid, gas money, food stamps, etc. to survive.

Due to this Debbie's spurt of compliance, the new case manager (the fourth casemanager for Ann), has returned the plan for Ann and Gloria, on 3-13-96, to Reunification.

Ann has been left to grow up in out-of-home care for 3 years, or 55% of her life, while her mother has drifted in and out of her life. Ann's only stability has been us, her foster parents (whom she chose to call "mom" and "dad" in late 1994). She is visibly bonded to us and considers our family, friends, pets, home, etc., her own.

Ann is indifferent about the visitation she has with Debbie and Mike. She does not talk about it unless asked. Even when asked, her answers are short and not with a lot of feeling. She will lie awake and ask one of us to 'protect her' or make comments like, "I will miss you", "you're my mommy too, right?", and "you'll always be my mom and dad, that never changes". She seldom sleeps though the night; she will be moaning/crying and saying things like, "they are coming to get me". We let her know that we are there, she reaches over, grabs us, and holds on tightly as she goes back to sleep. On occasion, she has stated, "I couldn't find you, I thought I would never see you again." Ann always asks for reassurance that we will return to pick her up from visits and daycare; and specifically wants to know what time.

In 2-96 a new casemanager, Jim, was assigned to the case. Jim has only met Ann twice (introduced at a restaurant with us and once dropping off papers at Debbie's home) since he was assigned the case. We have asked him to review the file to get a clear picture of the history of the case and to please consider the effects on the children involved. Within three weeks of taking the case, Jim approved visits to occur at Debbie's house before he had inspected the environment.

Visits are not on a set schedule. Ann is taken to visit her mother whenever it is convenient for Debbie. The visitation schedule has been changed and re-arranged often at the very last minute to accommodate Debbie and the visitation worker's schedule. No thought seems to be given to taking Ann out of pre-school or other planned activities she may be looking forward to. In one instance, Ann was taken by Teri to receive medical treatment for a bug bite which made her entire hand abnormally swollen from the fingers to the wrist. A message was left for both the visitation worker and Debbie that the visit may be delayed. The worker did not meet up with Ann and Teri as requested; and the visit was missed. In a phone conversation one-half hour later, Debbie ranted about the visit being missed and how important her time was with Ann. She did not inquire about Ann's condition until the very end of the conversation.

Debbie is scheduled to finish her rehabilitation program in August of 1996. In September she will gain the custody of Ann. She will gain the custody of Gloria in October. Debbie will not have proved the ability to live without the structure her program has provided her, the ability to maintain a job or stable environment, or the ability to parent her children.

Will Debbie be able to lovingly accept that the children she abandoned, have come to know and love other persons as their stable family? Will she be able to gain their trust in her and protect their innocence?

Reunification has to mean that there was a bond before the tragedy of separation. In the case of Ann and Gloria, the facts show they were never "together" before out-of-home placements were found. Reasonable efforts must be tied to strict time frames; and the best interests of the children should be the first priority.

I wish I could say this is an isolated case but it is not. In Nebraska, I volunteer my time and serve on a local foster care review board. I review the permanency plans for children in out-of-home care and along with my fellow board members, I make recommendations to the legal parties regarding the case. My board review cases of children in out-of-home care every month like my foster daughters. My personal experience with my foster daughter and my experience of reviewing hundreds of cases of children from my community has led me to the conclusion that "child protection" and "child advocacy" must be made the primary focus of our child welfare system rather than reunification.

The data collected by the Foster Care Review Board on children in out-of-home care shows that in Nebraska, as of June 18, 1996, out of the 3,360 children in out-of-home care:

- 41% (or 1,360 children) of Nebraska's state wards have been removed from the home for abuse and/or neglect at least twice
- Of the 194 state wards under the age of 5 who have been removed from the home on more than one occasion;
 - 157 have been in foster care twice
 - 32 have been in foster care three times
 - 3 have been in foster care four times
 - 1 child has been in foster care seven times
- Of the 2,940 state wards returned home during 1995, 336 (11%) were returned to foster care within the first 5 months of 1996.

To preserve families, The Child Welfare System often exerts a great deal of effort on parents who through their actions, (abandonment, disregard to court orders, continued drug use, sporadic attendance to visitation, etc.) tell the professionals involved in the case that they are not interested in parenting their children. These lengthy, expensive and frustrating reunifying efforts hurt the children involved by extending the chaos and instability that may have brought the child into care in the first place.

I believe it is possible to strike a balance between parental rights and best interests of the child. The policy of reunification can be qualified to ensure that parents who are habitual drug abusers, violent physical and sexual abusers, mentally ill, or who abandon their children, are kept to a strict time frame to rehabilitate themselves, if the court determines rehabilitation and reunification to be in the best interest of the child(ren), so the child(ren) have a chance to attain permanency.

I would respectfully suggest to the committee that the qualifications and restrictions applied to the policy of reunification outlined in the Utah Law §78-3a-311, be amended to the Federal Law, P.L. 96-272.

Utah Law §78-3a-311 is as follows:

- (1) The court may make any of the dispositions described in Section 78-3a-39, place the child in the custody or guardianship of any individual or public or private entity or agency, order protective supervision, family preservation, medical or mental health treatment or other services.
- (2)(a) Except as provided in Subsection (3), whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the Division of Family Services, it shall order that the division make reasonable efforts to provide services to the minor and his parent for the purpose of facilitating reunification of the family, within a maximum time period not to exceed 12 months from the date that the child was initially removed from his home by the division.
- (b) Any physical custody of the minor by the parent during the period described in Subsection (a) does not interrupt the running of the period.

- (c) At the expiration of the 12 month period described in Subsection (a), a dispositional review hearing shall be conducted by the court in accordance with Section 78-3a-312. If at that time the child cannot be safely returned to the care and custody of his parent without court supervisions, a permanency plan for the child shall be finalized. If the child clearly desires contact with the parent, the court shall take the child's desire into consideration in determining the permanency plan.
- (3) Because of the state's interest in and responsibility to protect and provide permanency for children who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited. The court may, under any circumstances, determine that efforts to reunify a child with his family are not reasonable, based on the individual circumstances, and that reunification services need not be provided. In any case, there is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:
- (a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;
 - (b) the parent is suffering from a mental illness of such magnitude that it renders him incapable of utilizing those services; that finding shall be based on competent evidence from mental health professionals establishing that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months;
 - (c) the minor has been previously adjudicated as an abused child due to physical or sexual abuse, that following the adjudication the child was removed from the custody of his parent, was subsequently returned to the custody of that parent, and the minor is being removed due to additional physical or sexual abuse;
 - (d) the parent has been convicted of causing the death of another child through abuse or neglect;
 - (e) the minor has suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known the person was abusing the minor;
 - (f) the minor has been adjudicated as an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the child to pursue reunification services with the offending parent;
 - (g) the parent's rights have been terminated with regard to any other child;
 - (h) the child was been removed from his home on at least two previous occasions and reunification services were offered or provided to the family at those times; or
 - (i) if any other circumstance that the court determines should preclude reunification efforts or services.
- (4) (a) Failure of the parent to respond to previous services or comply with any previous treatment plan, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, whether a parent continues to live with an individual who abused the child, any patterns of the parent's behavior that have exposed the child to repeated abuse, or testimony by a competent professional that the parent's behavior is unlikely to be successful, are relevant factors to consider in determining whether reunification services should be ordered.
- (b) The court shall also consider whether the parent has expressed an interest in reunification with the child, in determining whether to order that reunification services be provided.
- (5) If reunification services are not ordered pursuant to Subsection (3)(a), and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court may order the division to provide reunification services. The time limits described in Subsection (2), however, are not tolled by the parent's absence.
- (6) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for minors ten years of age or older, the minor's attitude toward the implementations of family reunification services.

and any other appropriate factors. Reunification services for an incarcerated or institutionalized parent are subject to the 12 month limitation imposed in Subsection 2 unless the court determines that continued reunification services would be in the child's best interest.

- (7) If, pursuant to Subsection (3)(b), (c), (d), (e), (f), (g), (h), or (i), the court does not order reunification services, a hearing shall be conducted within 120 days of establishment of a permanency plan for the child, in accordance with Subsection 78-3a-312(3).

I would like to thank Chairman Shaw, Ladies and Gentlemen of the sub-committee for allowing me, as a foster parent, to share my personal experiences with the child welfare system and the policy of reunification with you.

I respectfully urge you to change the Federal Law, P. L. 96-272, from directing child welfare agencies across the country to pursue reunification in all cases of children in out-of-home care - at all costs, to a policy that considers "the best interests of the child" first and foremost.

Please look at this legislation through the eyes of the children it affects. Every day I see the pain and upheaval in one little girl's life caused by this legislation and its interpretation that parental rights have precedence over what the parents have done or what the child's best interests are. I hope by sharing her story with you, you too will see the necessity of qualifying the pursuit of reunification.

Thank you for your time.



Child Welfare League of America, Inc.

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**TESTIMONY PRESENTED TO THE
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS**

**FOR THE HEARING ON
BARRIERS TO ADOPTION**

BY

DAVID S. LIEDERMAN

EXECUTIVE DIRECTOR

CHILD WELFARE LEAGUE OF AMERICA

JUNE 27, 1996

Mr. Chairman and members of the Subcommittee, I am David Liederman, Executive Director of the Child Welfare League of America (CWLA). Our 900-member agencies across the United States and Canada work to improve conditions for children and families in crisis and at risk. Nearly 400 of our agencies provide adoption services that enable children to secure loving families. I appreciate the invitation to testify at this hearing and commend your interest in strengthening the federal commitment to help more children find homes through adoption.

Adoption is a vital service in the array of efforts needed to protect and care for abused and neglected children. "Reasonable efforts," as embodied in P.L. 96-272, The Adoption Assistance and Child Welfare Act of 1980, do not impede good child welfare practice. "Reasonable efforts" on the part of agencies and the courts can promote and sustain appropriate and timely adoptions of children in need of wonderful families.

"Reasonable efforts": What they are; what they are not

The Adoption Assistance and Child Welfare Act of 1980 requires that "reasonable efforts" be made to prevent the unnecessary removal of children from their families. If children's safety is jeopardized and they have to be separated from their families, efforts must be made to secure permanence for children either by reunifying them safely with their families or finding them another home that is safe, loving and stable.

CWLA continues to support the principles contained in P.L. 96-272. The law's emphasis on making reasonable efforts to allow abused and neglected children to remain in their own homes with their own families, if it can be done safely, is central to providing real assistance to troubled families and their children. "Reasonable efforts" are essential to good practice and a tool for achieving success for children and for improving the child welfare system.

"Reasonable efforts" became part of P.L. 96-272 because at that time, foster care was virtually the only option available and there was recognition that alternatives were needed. Placing children in an overwhelmed, under-serviced foster care system was not then and is not now conducive to positive outcomes for children. In fact, there were many instances then, as now, of children being removed unnecessarily from families. It is important to recognize that children almost always are traumatized by removal from their own family.

P.L. 96-272 contains procedures and fiscal incentives, albeit inadequate, to meet the goals of protection, permanence for children and family support:

- Provision of preplacement and postplacement services to keep children safely in their own homes or reunite them with their families as soon as it can be done safely.
- Requirements of case plans, periodic reviews, management information systems, and other procedures to ensure that children are removed from their homes only when necessary and are placed with permanent families in a timely fashion.

- Increased support for adoption, including the establishment of adoption assistance programs, specifically federally funded subsidies for adoption of children with special needs.

“Reasonable efforts” affirmed the importance of family for children. In many jurisdictions across the country, progress has been made in introducing family-focused, child centered services in response to abuse and neglect; thousands of children have been able to remain safely at home or safely returned to their homes after being placed in out-of-home care.

The reasonable efforts principle has had a positive impact overall and has contributed to a number of improvements in the child welfare system (Reasonable Efforts Advisory Panel, 1995):

- a reduction in the amount of time children spend in out-of-home care
- an overall decrease in the number of placements each child experiences
- more goal-oriented planning for children and families
- expansion of needed services
- better family preservation practices, and
- greater emphasis on decision-making that takes into consideration the unique circumstances of every child and family.

Despite improvements and progress, the nation’s collective response to abused, neglected and abandoned children is failing to provide both protection and appropriate living arrangements for many children. There are many reasons for this, not the least of which is the tripling in the number of children reported abused and neglected since 1980 and the failure of state, federal and local budgets to keep pace with this rise.

Many are removed from their families prematurely without reasonable efforts having been made. Some are not removed quickly enough. Many unnecessarily remain in foster care because of inadequate reunification efforts. Other children are reunified but without adequate follow-up services to their families, resulting in re-abuse and removal once more. Some children and youth are placed in facilities appropriate to their needs, others are placed in programs that are too restrictive or not restrictive enough. For some children, known to be living in dangerous or threatening conditions, little or nothing is being done. High staff turnover rates, low pay, inadequate training, inadequate supervision, etc., lead to poor casework practice in many cases, despite good intentions.

This is not to say that one form of intervention is necessarily better than another; placement should be based solely on the child's needs with some requiring more intensive intervention than others. All of these services are valuable. The issue is which ones are appropriate to the child's needs and family circumstances. In the first instance, the state must examine in good faith whether a child can, with proper support, safely remain at home.

In San Diego, a mother with a substance abuse problem had her three children removed and placed in three different homes, each far from the other. Mom was told she could get her kids back if she got drug treatment and ended her drug use, got training and a job, and visited the children on a regularly scheduled basis. Mom ended drug use, got a full-time job, but couldn't visit her children because one foster home was at least three hours from the other and she had to keep her job. This was not a prescription for possible success, but a catch-22, a setup for failure.

A great deal of confusion and lack of clarity have occurred because the U.S. Department of Health and Human Services has never issued formal regulations and guidance. Without that guidance, states have had a lot of room to interpret the provision and to flounder.

The "reasonable efforts" clause does not, however, mandate unreasonable efforts. Nor does it support family preservation or family reunification at all costs. All decisions need to be guided by sound practice and good judgment of all involved on a case by case basis.

As Jean Price, the chairman of CWLA's National Advisory Committee on Adoption, described in a hearing before this subcommittee last year, there are certain factors that are fundamental to all effective social services for children:

- The first responsibility is to attend to a child's safety and protection. For some children and families, family preservation services and family reunification services are not indicated and should not, in fact, be pursued. Other families, perhaps as many as 80 percent of those who come to the attention of the child protection system, can be helped to gain the skills they need to live together safely or to come to another resolution that benefits the child, including placement with another family or in another setting.
- Whenever it can be done safely, it is important to strengthen family ties, keeping children connected to their family of origin. It is vital for all people, but especially for children, to be part of a family. Roots are important to children. "Where do I come from?" "Where do I belong?" are questions that all children and youth ask. As a matter of fact, many troubled adults are still struggling with this question.
- Children need permanent living arrangements. They do not do well when they are moved from place to place with no sense of the past or the future. Children need legal protection as part of their own families, or through adoption.

Reasonable efforts remain key to permanency planning. There is consensus that "these efforts, however, are to be pursued *only* when consistent with a child's health and safety. The biological family is to be the placement of choice, *provided the family responds to help and will be able to provide proper care within a reasonable time after state intervention.*" (Reasonable Efforts Advisory Panel, 1995)

The Family Work Involved in Reasonable Efforts Can Improve Outcomes

Research in child welfare, children's mental health, and child development all point to more positive outcomes for children when parents are involved (Dartington Social Research Group, 1995; Lunghofer, 1995; Pine, Warsh and Malluccio, 1993; Wittaker, 1981).

- When a child can remain safely at home, supportive and crisis services can help to stabilize the family and improve skills and resources so that the child can be spared the trauma of having to leave home and community.

Glenda and John, young, first-time parents, were afraid that they would permanently lose custody of their infant son after he was hurt falling from his father's arms in the shower. When John was charged with child abuse, the court ordered the couple to take part in a home visiting program, participate in counseling and parenting classes. The home visitor scheduled twice-weekly visits so John could learn to bathe, feed, clothe, and play with his son safely. The couple gained confidence and skill in parenting, and were helped to form a positive and supportive relationship with Glenda's parents, with whom they were living and who had temporary custody of young Johnny. The couple have since regained custody of their young son and they stay in touch with the home visitor to report the latest milestones in Johnny's development.

- In-home social services, by their very nature, are "up-close and personal." By engaging the family and spending time in the home, there is increased opportunity for observing abuse and neglect than with standard child protective services. Thus, when families, who on the surface appear to be "low risk," present more serious problems, there are professionals already involved who can respond in an appropriate and timely manner and ensure child safety.

Family support and family preservation workers frequently report that, by spending "real time" with families in their homes and communities, they are able to learn about and observe more serious problems that may be present, including sexual abuse and domestic violence. Because they know more about the family, and have formed a relationship with at least one caretaking adult, they are able to mobilize the family to develop a protective plan for the child which may include moving the nonoffending adult and children to a safe place, removing the adult responsible for the abuse, or removing the child temporarily or permanently.

- When a child cannot remain safely at home, parental and family involvement are key to either a successful reunification or another permanent resolution for the child. For example, according to one of our providers of services to abused children and their families,

David, an 11-year old boy who had been in residential treatment for several years because of his destructive behavior suddenly began to make dramatic progress when it was learned that his birth father—with whom he had had little contact—was eager to build a father-son relationship. Over a period of months, with much support and assistance from the worker, David and his father learned to know one another and live together. David's dad received coaching and guidance on parenting. David learned, through many home visits, how to get along in a family and with peers in the community. Now David is at home with his dad.

- When reunification is not possible, working with the family often can lead to an optimal resolution for the child, through adoption, guardianship, or long-term care with relatives. By working with the parents and other family members, the agency can help them to find a caring and permanent solution for the child.

Debbie, a 7-year-old, came to live with the Hart foster family because she had been abused and neglected, and as a result of her serious acting out behaviors in school. Debbie's mother, Jeanine, was concerned about her daughter but unable to break away from a live-in boyfriend who was physically abusive with Debbie. Through supportive counseling and a positive and supportive relationship with Debbie's foster parents, Jeanine was able to come to terms with the situation. She agreed to voluntarily release Debbie for adoption, and worked with the counselor to arrive at a visitation and contact agreement with the Harts, who subsequently adopted Debbie. Now Debbie is at home with her adoptive family, June and Ray Hart, and she is able to have contact with her birth mother. Her acting out behavior has disappeared and she is performing at grade level for the first time.

When, in the process of working intensively with the family, it is determined that staying together or reunifying the family is not in the child's best interest, the agency is far more prepared to demonstrate to the court that the parents are unable or unwilling to care for their children and to develop and implement a permanent plan for the child.

When it is determined that a child cannot be reared by the birth parents, steps toward adoption should proceed without delay. In still too many instances, that, unfortunately, is easier said than done.

Children in Need of Homes

In most states in the U.S., adoptions are done by licensed voluntary or public agencies, or by independent practitioners. Independent practitioners may include attorneys, physicians, social workers, and others with few qualifications.

- An estimated 20,000 abused, neglected, abandoned, or orphaned children with special needs are currently legally free and awaiting permanent and loving adoptive homes, with another 69,000 children likely to need adoption in the near future. As parents with AIDS die, there will be even more children needing permanent families through adoption.

States are the legal parents of these children, many of whom have been abused, neglected or abandoned by their families. These children need permanent families and it is our duty to help find them appropriate families that can best care for them.

Seventy-two percent of the children awaiting adoptive placement in 1990 had one or more special needs: medical, developmental, behavioral or psychological.

Addressing Barriers to Adoption

While there are thousands of couples waiting to adopt infants, the opposite is true of the thousands of children in foster care who are waiting for adoptive families. Far fewer families than needed have been recruited for the large numbers of children with special needs.

To secure a sufficient number of adoptive parents available for children with special needs who are in the public foster care system, there must be more public recognition of the need that these children have for permanent families and that parents can, with professional help and the necessary resources, effectively parent them.

Legal system barriers to adoption

Currently children wait an average of two years and five months for termination of parental rights to be completed by the courts. This is not responsive to the needs of children. It is essential that courts give priority to children's cases when setting dockets, hearing cases, issuing decisions, scheduling and hearing appeals. The federal government can help by urging state courts to enact time standards that will ensure prompt handling of all children's cases.

Agency barriers to adoption

If child welfare agencies are to eliminate agency barriers to adoption—so that children needing adoption can be adopted without delay—priority needs to be given to:

- identifying those children very likely to need adoption at the time they enter care and

moving promptly toward adoption for these children;

- recruiting a diverse group of foster and adoptive families on an on-going basis to be available for children with special needs;
- ensuring that staff are hired who can respond to children's needs, including a range of cultural and language needs;
- providing that all child welfare staff are trained in the full range of child welfare programs from family preservation to adoption; and
- establishing a service mix and staff caseloads that can meet the needs.

These barriers do not exist in the child welfare agency alone, nor are reasonable efforts the responsibility of only the child welfare agency. Other agencies, including health and education agencies, as well as the courts are key partners in planning for and achieving successful outcomes for children.

Continued national leadership and adequate financial resources are essential if we are to ensure that these barriers are removed and that children who cannot return to their families can be moved to adoption in a timely way.

Financial barriers to adoption

A major barrier to adoption of children with special needs is financial. These children need multiple services in order to adjust to family living and become part of the adoptive family.

In many instances, the most suitable families for these children—ones who are committed to meeting their needs—are families of modest or low income who cannot afford to pay for the daily needs and often extensive medical services for these children without assured help. The title IV-E Adoption Assistance subsidy provides some of that assurance. It is available wherever the child and family reside.

The pending adoption tax credit proposal with the targeted assistance to families adopting children with special needs as provided in the bill as passed by the Senate Finance Committee, offers important additional help to find homes for children who are waiting.

Adoption can be encouraged by confronting these legal, financial, and procedural barriers, and by implementing reasonable efforts well.

Eliminating "reasonable efforts," as some have suggested, is not a solution. Getting rid of those two words will not solve the problems that really impede adoption and other successful outcomes for abused and neglected children or those at risk of abuse or neglect.

Making Reasonable Efforts Work

The following elements must be in place in order for "reasonable efforts" to enhance opportunities for successful child outcomes and to serve as a tool for improved practice and decision making:

Written federal guidance to clarify for states what is meant by "reasonable efforts," including:

- a core list of services and supports that a state must develop as evidence of its capacity to make reasonable efforts;
- when reasonable efforts are appropriate and those instances when they are not required-- i.e., that they are not required when they compromise the safety of the child and that reunification efforts are not necessary, or "reasonable," when the chances of family reunification are remote; and
- standards of performance for state child welfare systems that will provide a meaningful and predictable role for DHHS in its oversight of state agencies receiving federal funds for child welfare services. States vary widely in their performance and capacities. National standards should be adopted to improve practice and outcomes. CWLA for many years has been the principal national agency responsible for developing child welfare standards. Our 11 volumes of standards are recognized by child welfare professionals throughout the world as constituting "best practice" standards. Unfortunately, there remains a wide gap between the excellence contained in these standards and what actually occurs in practice.

Federal monitoring of state reasonable efforts. Federally conducted program audits are an important means of ensuring that states are working conscientiously to both keep children safe, to keep them connected to their families, and to achieve permanence for children. Legal actions have found that more than 20 states have failed in many ways to properly care for children, including making reasonable efforts when appropriate.

Intensive preventive services. Communities providing intensive preventive services have been especially successful with reasonable efforts. Some have had particular success with speedy adoptions and other permanent placements for children unable to return home. Federal encouragement of family preservation and support efforts is important to reinforce these state and community efforts (Reasonable Efforts Advisory Panel). To carry out these efforts, it is imperative to bring to bear adequate resources for staffing, training, and agency coordination to make sure the job can get done.

Interagency collaboration and support. Successful reasonable efforts, like effective child welfare services, cannot be implemented by the public agency alone. All service providers, the courts, and the legal community must work together to ensure that children and their

families are receiving appropriate services and to enable timely and sound decision making in their behalf. Court assessment and improvement is not only vital, but unlikely to occur in any widespread manner, without federal funding and encouragement. (Reasonable Efforts Advisory Panel, 1995)

Informed and consistent court involvement. Courts should continue to make determinations about agency reasonable efforts to preserve and reunify families. (Reasonable Efforts Advisory Panel, 1995). Court effectiveness depends upon proper judicial training, reasonable court caseloads, and a genuine interest and commitment to child and family work. It also is imperative that judges be assigned to regular child welfare caseloads as opposed to having a revolving assignments which prevent following a case over time.

Training, protocols, and supervision of agency workers to

- conduct accurate assessments regarding child safety, family capacity and motivation, and family strengths and resources;
- intervene effectively when safety is a concern;
- develop an appropriate service plan that meets the needs of the child and family;
- engage the family in making the needed changes;
- obtain or develop needed resources;
- document progress and problems;
- work effectively with legal counsel, the courts, and with other service agencies to move the case to an optimal resolution for the child.

Reduced caseloads so that workers have the opportunity to make reasonable efforts and do best practice in their work with children and families.

These are the basics of good casework practice and without them there will never be sufficient protection for children at risk of harm. These elements are essential for increased safety and success for children. With more than three million children reported abused or neglected, "reasonable efforts" are an essential tool if children are to remain safely with their families. The alternative is to bring many more thousands of children unnecessarily into care with all the associated trauma and costs that this option generates.

In the last decade we have learned in specific detail what good and effective "reasonable efforts" look like. There is a great need for HHS to catalog those experiences and transmit them to all jurisdictions so they can be implemented properly. It is equally important that benchmarks of performance be set in each state so that all parties have clear and appropriate

expectations and responsibilities and make the necessary investments to keep children safe. That will enhance the appropriate and timely adoption of children in need of homes as well as help children who can remain or be reunified safely with their families.

With current and increasing demands, we need a system with all the options and we need them to work well. I look forward to working with the Subcommittee to make sure that happens.

TESTIMONY OF: LAUREEN D'AMBRA, ESQUIRE
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BEFORE: U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HUMAN RESOURCES
OF THE COMMITTEE ON WAYS AND MEANS

REGARDING: BARRIERS TO CHILDREN BEING PLACED FOR
ADOPTION UNDER THE PROVISIONS OF THE ADOPTION
ASSISTANCE AND CHILD WELFARE ACT OF 1980

DATE: THURSDAY, JUNE 27, 1996

**TESTIMONY OF LAUREEN D'AMBRA, ESQUIRE
CHILD ADVOCATE FOR THE STATE OF RHODE ISLAND**

SUMMARY OF TESTIMONY

The State of Rhode Island, Office of the Child Advocate, investigates child fatalities of those children who die while involved with the child welfare system. Through the work of child fatality review panels, and in collaboration with legislators, judges, policy makers and child advocates from a range of professional disciplines, Rhode Island has strengthened termination of parental rights statutes and codified case law. The purpose of these laws is to move children toward permanency planning as was intended by the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272).

R.I.G.L. §15-7-7 allows the Family Court to terminate parental rights when the parents' rights have been terminated previously and the underlying conditions still exist. "Reasonable effort" to reunify are not required if the Court finds that additional services would not result in reunification. A second provision states that when a parent has been unable to provide care for a child for a period of twelve months due to substance abuse, it shall constitute prima facie evidence of a chronic substance abuse problem. The third provision mandates that the Court consider the child's placement in foster care, integration into the foster home, length of time that the child has been placed, and the child's preference, if the child is able to express a preference in determining best interest of the child.

The Rhode Island General Assembly has also passed amendments to R.I.G.L. §40-11-12, that gives the Family Court the authority to appoint a guardian of the person of a child who has been placed with the Department of Children, Youth and Families, and allows guardianship subsidies. This statute provides "permanency planning" for older and/or difficult to place children through guardianship rather than adoption.

Last month, the "Report of the Children in Crisis Task Force" was issued by the Office of the Child Advocate. The Task Force reviewed the death of four children involved with the child welfare system. The Task Force concluded that public awareness of the needs of children, and the action of policy makers is essential if we are to appropriately protect children and provide stability through adoption when reunification is not possible.

Rhode Island's legislative enactments facilitate termination of parental rights and ensure timely adoptions. Passage of P.L. 96-272 was never intended to require reasonable efforts at all costs. State initiatives such as those in Rhode Island have better defined the intent of this federal mandate in an effort to balance the rights of families, but not at the expense of vulnerable children.

Dear Mr. Chairman and Distinguished Members of the Committee:

Thank you for the opportunity to speak before the Subcommittee on Human Resources of the Committee on Ways and Means regarding the provisions of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). I am Laureen D'Ambra, testifying as the Child Advocate for the State of Rhode Island. I have served in this capacity for the past seven years. Prior to that, I served as legal counsel for the Department of Children, Youth and Families, the state child welfare agency in Rhode Island, for nine years. I have worked closely with child advocates, legislators, judges, and policy makers in our state to strengthen termination of parental rights statutes and to codify case law regarding reasonable efforts. The impetus for these legislative initiatives were crucial questions that emerged in the course of our statutorily mandated child fatality investigations. During these investigations, experts from within the community examined the cases of children who died while in the state's care.

Panel members addressed circumstances under which a child should be removed from a family that poses a risk of abuse or neglect. Additional issues of major significance include the following:

1. How can we better define "reasonable efforts" in accordance with federal and state law, in the best interest of children?
2. How can we identify and expedite cases that require termination of parental rights?
3. How do we facilitate timely adoptions for those children who are permanently removed from their families?

The Office of the Child Advocate is a state funded and operated ombudsman office for children in the care of the state. In accordance with our mandate, we protect the legal, civil and special rights of our most vulnerable population: abused and neglected children; those with serious emotional and behavioral problems; and those in the juvenile justice system. Since its inception in 1980, the State of Rhode Island, Office of the Child Advocate has reviewed the cases of all children who have died while involved with the Department of Children, Youth and Families. The Office has studied these tragic cases, and determined systemic changes that can be made to improve our child welfare system and reduce the numbers of children who die from abuse or neglect.

In the course of our work, we have looked intensively into the cases of children who are able to remain at home with services to prevent abuse and neglect and correct the problems that create risk. We have also considered the cases of children who could not remain safely at home, and required out-of-home placement and reunification planning. We have studied those situations where parental rights were terminated to allow the adoption of children.

We have also reviewed cases such as those of Eric D., a child returned to his biological father who killed him a month later. Eric had little contact with his father due to delays in establishing paternity. Three year old Eric had resided with his foster mother since birth. He was returned to his father based upon a need to comply with P.L. 96-272, based upon father's request to participate in a plan for reunification. Eric's case is a reminder to all of us of the vulnerability of young children, and the horrible reality that parents or caretakers can deliberately and violently kill their children. Cases like this involving similar tragedies led to the formation of a task force convened by the Chief Judge of the Family Court to consider legislative initiatives that would expedite termination of parental rights.

Rhode Island has long recognized the need for permanency for children. In 1986, the Rhode Island Supreme Court upheld statutory provisions of parental unfitness due to "conduct toward any child of a cruel and abusive nature." The Court held that reasonable efforts were not necessary in accordance with P.L. 96-272, in a case involving a mother who had been convicted of delinquency murder and first degree child abuse of her nine month old baby. Parental rights of all five of her children were terminated by the Family Court.

The newly formed Dependency/Neglect/Abuse Subcommittee continued the initiative by recommending the introduction of three bills in the 1994 session of the Rhode Island General Assembly that strengthened the existing laws with regard to termination of parental rights.

I. DEFINING REASONABLE EFFORTS IN ACCORDANCE WITH P.L. 96-272:

R.I.G.L. §15-7-7, "Termination of Parental Rights", allows the Family Court to terminate parental rights when the parents rights have been terminated previously and the underlying conditions still exist.

This enactment is an acknowledgement that some parents whose parental rights to another child had been terminated continue to lack the ability or willingness to respond to services that would rehabilitate them. If the Court finds that it is improbable that additional services would result in reunification, reasonable efforts to reunify are not required.

In Rhode Island there had been public focus on a case involving a mother who was convicted of murdering her young son. Upon her release from prison, she gave birth to three more children and subsequently abused them. This case triggered the passage of this provision of the legislation. This statute recognizes the absurdity of reunification under these circumstances, and the need to protect children from chronically abusive parents.

A second provision of this new law states that when a parent has been unable to provide care for a child for a period of twelve months due to substance abuse, it shall constitute prima facie evidence of a chronic substance abuse problem at trial.

All are aware of the impact that parental substance abuse has had on the child welfare system. Brief, time-limited interventions have not been successful in many cases. Recovery is not able to be addressed in a permanent way. Typically, children have moved in and out of care, or cases are kept open for years, as the patterns of relapse stymie the efforts of a system designed to intervene and resolve issues. This legislation was intended to address the escalating number of cases of abuse and neglect due to parental substance abuse. This law has allowed Rhode Island to quickly move to terminate parental rights in cases where there is chronic substance abuse.

The third provision of the law mandates considerations by the Family Court in determining the best interest of the child. The Court shall give consideration to the child's placement in foster care, integration into the foster home, and the length of time the child has been placed, and the preference of the child, if the child has capacity to express a reasonable preference.

When the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) was passed, many of us hoped for a radically reformed child welfare system. In some ways, this promise has been fulfilled. Programs that are comprehensive, sensitive to ethnic and cultural issues, cognizant of the social environment, and individualized to the problems and needs of each family will work in the vast majority of cases. However, passage of P.L. 96-272 was never intended to require reasonable efforts at all costs. State initiatives such as those in Rhode Island have

better defined the intent of this federal mandate in an effort to balance the rights of families, but not at the expense of vulnerable children. The law does not require preservation of families if children are in dangerous environments. The best interest of the child must outweigh all other considerations.

II. IDENTIFYING AND EXPEDITING TERMINATION OF PARENTAL RIGHTS CASES:

Despite these state initiatives, however, we are seeing a failure related to "permanency planning." Children remain in the system too long, despite many years of efforts to implement the P.L. 96-272 through case plans, court reviews, and time lines. Some children spend so many years embroiled in the process of reunification that they are frequently older if and when they become free for adoption. There are very few adoptions among children in the older age group, especially among those who are in residential programs rather than foster homes.

A 1995 Rhode Island survey of children legally free for adoption, conducted by the Office of the Child Advocate, indicates that the mean time that a child whose parental rights are terminated has been in state custody is 5.9 years, clearly not what was envisioned in the enactment of P.L. 96-272. These cases demonstrate that the mandate for reunification should be a qualified one: families need not and should not be given unlimited chances to regain custody of their children. Cases should be triaged to identify appropriate treatment plans and realistic time frames for implementation. A trained professional staff knows quickly when reunification efforts are futile.

Given the alarming statistics regarding a lack of permanency for numerous children in state care, the Rhode Island General Assembly supplemented existing law by establishing specific time frames to expedite termination proceedings in its recent amendment to R.I.G.L. §40-11-12.1, "Family Court review." This Act requires the court to order the Department of Children, Youth and Families to institute proceedings for the adoption of a child if the child is less than ten (10) years of age and the child has been in the care of the Department for a period of twelve (12) consecutive months, unless the court determines it is not in the best interest of the child to do so.

III. PROVIDING PERMANENCY THROUGH ADOPTION:

Another delay in permanency planning is evident for children from minority populations. We have had little success in locating an adequate number of adoptive homes or visiting resources for this group. Rhode Island has placed a strong

emphasis on the importance of placing children within their own cultural community. As you are aware, however, from recent Congressional action on this issue, minority families would have to adopt at a much higher rate than the general population to satisfy the need, given the number of children free for adoption. According to the 1990 Federal Census data, the percentage of black persons in Rhode Island is small, (3.9%), yet almost half of the children available for adoption are black (39%).

Given the over-representation of minority children in placement, it is critical that child welfare systems review what they are offering families of color in terms of family preservation and reunification services. Service providers must be culturally competent to assess the family's strengths, as well as its limitations, and to successfully engage the family in a service plan.

The impact of a delay in permanency planning, whether due to age, race, sibling groups, or medical, emotional or behavioral problems, is devastating. Each child who feels alone and abandoned wants nothing more than what most of us take for granted, the continuity and security of belonging to a family.

Recognizing this pattern of children being "stuck" in the child welfare system, the General Assembly enacted legislative changes in order to more easily facilitate guardianships. Amendments to R.I.G.L. §40-11-12 "Awarding Custody" gives the Family Court the authority to appoint a guardian of the person of a child who has been placed in the care, custody and control of the Department of Children, Youth and Families and allows subsidies for guardians of handicapped or hard to place children. Written consent of the parent or parents previously having custody of the child is required.

Provisions in this statute acknowledge the fact that "permanency planning" for older and/or difficult to place children may be achieved through guardianship, rather than adoption. In certain cases, termination of parental rights may not be feasible or in the best interest of the child.

IV. CONCLUSION

In an Office of the Child Advocate report released in May of 1996 reviewing the death of four children, the Children in Crisis Task Force focused on resource issues as a barrier to appropriate planning for children in state care. At a time when child deaths due to abuse and neglect illustrate the vulnerability of children born into troubled families, appropriate resources must be the focus of public policy. Ironically, the professional environment

in which service providers try to do their jobs often has a painfully close parallel with many of the families that they serve. They struggle with limited resources, and may be overwhelmed by tasks that are too great and burdensome for these individuals to accomplish.

However, it is important to note that some of the weakest areas in the child protection system may be addressed and alleviated by policy and procedural changes that often do not require additional funding. A continuing effort to improve decision making and coordinate service provision will strengthen the safety net for children, and maximize use of limited resources available to states. These efforts will help to prevent unnecessary removal of children, and to move decisively to protect those at risk.

The Children in Crisis Task Force is especially concerned about what happens to children who are removed from their families, only to remain in child welfare placement for an extended period of time. Efforts to provide secure homes to children in out-of-home care, who too often experience placement disruptions and delays in permanency planning, must continue.

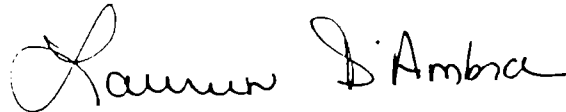
When community-based services are needed, they must be used efficiently so that every dollar committed to children's services will improve their lives. We do not simply need additional resources; we need effective ones. Interventions should be planful, appropriate and timely. They must follow the guidelines for programs that have been proven to be successful. Child welfare experts have clearly demonstrated the type of services that best meet the needs of at risk families. We need to structure our system accordingly. Prevention and reunification services must be provided on a consistent and predictable basis. Written case plans should be approved by the Court at regularly scheduled reviews. When efforts to effect reunification are not successful, we must move competently and expeditiously to terminate parental rights and facilitate adoption.

I endorse the efforts of programs like Families First, a foster care and adoption recruitment campaign recently begun in Rhode Island. Programs like this work to build public awareness and interest in foster care and adoption. Encouragement of corporate and community support to families who adopt children is crucial. Recruitment of foster and adoptive families is necessary if we are to accomplish the goals of placing children with families who will provide love, nurturance and support. Health care packages and tax incentives can further facilitate our ability to identify and recruit families to care for children in need of homes.

As Rhode Island's Child Advocate, I am fortunate to be able to carry the message to policy makers and the public that there exists a crucial need for resources for children at risk. In addition to financial and service-related resources, however, we must open our homes and hearts to this growing number of needy children. I hope that through this testimony their voices will be heard.

Thank you again for the opportunity to testify and to provide written testimony concerning state initiatives to address barriers to children being placed for adoption under the Provision of the Adoption and Child Welfare Act of 1980.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Laureen D'Ambra". The signature is fluid and cursive, with the first name "Laureen" written in a larger, more prominent script than the last name "D'Ambra".

LAUREEN D'AMBRA, ESQUIRE
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DATED: JUNE 27, 1996

**“ADOPTION ASSISTANCE AND CHILD WELFARE ACT:
SECURING CHILD SAFETY AND PROMOTING LEGAL PERMANENCY”**

**TESTIMONY OF
PETER DIGRE, DIRECTOR**

**LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**SUBMITTED TO
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES**

JUNE 27, 1996

I. INTRODUCTION

Chairman Shaw, Members of the Subcommittee. Thank you for the opportunity to testify today on the subject of federal adoptions and child welfare policy. My name is Peter Digre and I am the Director of the Los Angeles County Department of Children and Family Services, a public child protection agency which, during 1995, responded to more than 170,000 reports of child abuse and neglect. My Department is the largest child protection agency in the country. Today, and every day, I am personally responsible for the protection and care of more than 70,000 children. In addition to providing child protection services, my Department also is a full-service adoption agency. Each year, we are involved in the adoption of approximately 2,100 children.

I have 31 years of experience in administering state and local child protection programs in several of the most populous jurisdictions in the country.

In recognition of the importance of preserving families and in responding to the problem of numerous children remaining in the foster care system and growing up without legally permanent families, the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) required child protection agencies to engage in "reasonable efforts" to prevent a child's removal from home after they were abused or neglected, and to enable the reunification of families once children had been removed. The momentum to provide "reasonable efforts" was greatly enhanced when OBRA 93 created a block grant of funds for "family preservation and support" under Title IV-B of the Social Security Act.

No one can fault the legitimacy or worthiness of the goal of preserving and reunifying families. Indeed, in California family reunification is successful approximately 78% of the time for infants or 84% of the time overall. However, we cannot ignore the fact that at least 22% of the time infants who are reunified with their families are subjected to new episodes of abuse, neglect or endangerment. Further, our Department of Children and Family Services' studies indicate that the likelihood of a child returning home declines precipitously the longer a child stays in foster care. For example, in 1995 only 5% of the children in foster care longer than 24 months were reunified.

In addition, the original problem of numerous children growing up without legally permanent families continues to grow unabated. Long-term foster care without adoption is not stable and not permanent. The Child Welfare Research Center at the University of California found that 83% of toddlers (ages 1-2) entering non-relative foster care had a change in foster parents within six years, and 62% had three or more foster homes. Almost one out of three had five or more foster homes. Again, long-term foster care is, tragically, neither stable nor permanent, and the numbers grow every day.

Adoption, on the other hand, creates lifetime parents. It is commonly not understood how remarkably stable adoption is. In California, only an average of 14 finalized adoptions are set aside annually out of a potential pool of 15,000, a rate of less than .1% or one out of 1,000.

The final tragedy of children growing up without lifetime parents occurs when they grow up and leave foster care, in

most states at age 18, and become fully independent without a family to rely on. This is nearly an impossible task, one that my 18 year-old daughter could not have achieved and one that I do not believe I could have achieved. Indeed, I am 51 years old and my mother still keeps a bedroom in her house for me. I will, therefore, never become homeless, but some studies indicate that as many as 45% of 18-year-olds who leave the foster care system do become homeless at some point.

Based on the above, I am not ready to abandon "reasonable efforts" or "family preservation", however, the law must be vastly strengthened to:

- emphasize that child safety is the first priority;
- emphasize legal permanency and concomitantly decrease the numbers of children growing up in long-term foster care;
- improve the life opportunities of those children who do grow up in foster care.

II. EMPHASIZE THAT CHILD SAFETY IS THE FIRST PRIORITY

The word "reasonable" is often read out of "reasonable efforts" creating a situation in which children are placed in danger and re-abused in the name of family preservation and reunification. In short, we too often engage in "futile efforts" which are inherently unreasonable and small children pay the price.

This can be corrected with a simple statement of legislative intent indicating that in all child welfare decision-making, our first priority is child safety. This should be reinforced in three specific ways:

1. Specifically state in the statute that "reasonable efforts" do not include efforts that place a child in danger;
2. Judges, hearing officers and child abuse workers must make specific statements of facts which indicate why they conclude that children will be safe in family preservation or reunification decision-making;
3. Lawyers and guardians ad litem who represent children must advocate only for decisions which are consistent with child safety. This clarifies a significant legal ambiguity since some lawyers assume that they must represent the wishes of the child client even if the child's wishes were incompatible with safety.

The OBRA 93 family preservation and support efforts deserve special attention. In Los Angeles and throughout California and the United States, they have unleashed commendable creativity in the development of networks to preserve and strengthen families. At the same time, too little attention has been paid to well-known and basic standards that would vastly improve child safety. We are left with a thousand pilot projects without a core program making any definition of family preservation impossible.

The legislated state family preservation and support plan requirements should include specific standards, including 1) clarification that the first priority is always child safety, 2) careful risk assessment to exclude dangerous families, 3) a high level of in-home visits to supervise children's safety, 4) a comprehensive range of services to increase families' capacities to protect their own children, and 5) partnerships with the community.

For example, in Los Angeles we have developed 28 Community Family Preservation Networks (CFPNs). Families with serious histories of violence or sexual assault are excluded unless the perpetrator can be removed.

Community-based networks must visit each child in their home either four, eight or sixteen times a month depending on the intensity needed.

Each CFPN must organize 23 key family supports, including drug treatment, housing, day care, transportation and jobs and other income supports, as well as the in-home visitation.

Our emphasis on community partnership both leverages existing resources on behalf of these families and builds a continuing community of support around them.

We have found that these high standards create the best possible outcomes:

- 85% of the time we are able to successfully preserve families in this program.
- During the first three years of our original twelve programs, 30% fewer children went into foster care in the communities they covered. The growth of African-American children in foster care was stopped dead, even as other groups showed rapid growth.
- Despite the implementation of the family preservation programs, child deaths declined in Los Angeles County for four consecutive years, from 61 in 1991 to 39 in 1994.

Finally, the need for good standards for child safety applies to the whole child protection program and not only to family preservation and support. Consequently, enhanced Title IV-E state plan requirements should include:

- minimal standards for in-home visitation;
- forensic pediatric examination for physically and sexually abused children;
- regular pediatric care for foster children;
- a timely response and resolution for each allegation of abuse and neglect;
- background screening of alleged abusers and foster and relative caretakers, including criminal and abuse screening;
- risk assessment;

- training for foster parents, including relative caretakers and child abuse workers.

III. EMPHASIZE LEGAL PERMANENCY

As indicated clearly above, foster care is tragically unstable while finalized adoptions are nearly completely stable. A child who is adopted has parents for his/her life. A child who grows up in foster care will probably have many caretakers and will not have any assurance of a family and home after he/she turns 18. Adoption is to be vastly preferred to long-term foster care.

Congress can do the following to ensure that more children achieve legal permanency and that fewer enter long-term foster care.

1. Reject unreasonable efforts. Recognize in the statute that there are classes of parents for whom "reasonable efforts" and family preservation and reunification are or may be inherently unreasonable. These include:

- parents who kill or maim children;
- parents who aggressively sexually assault children;
- parents with histories of violent criminal behavior;
- parents who abandon children in life-threatening circumstances;
- parents with long-term and chronic addictions.

In such situations, it is usually futile and unreasonable to endanger children by making efforts to preserve or reunify their families. Children in these circumstances should have the right to a safe family for life by being adopted while they are still young.

2. Require reasonable efforts for legal permanency. Strangely, the concept of "reasonable efforts" applies only to preserving and reunifying families and does not address the compelling need of children to have permanent parents for life. It is imperative, and rather simple, to require states to make reasonable efforts to find adoptive homes for children without safe families.

IV. IMPROVE THE LIFE CHANCES OF CHILDREN WHO GROW UP WITHOUT PERMANENT HOMES

Each year, thousands of youth who have grown up in foster care emancipate to independence without reliable and legally permanent families.

Many of these children face homelessness, many have highly incomplete educations and many will become involved in crime to support themselves. Since we did not provide permanent families for these children, we owe them the basic opportunity to succeed as adults. Congress should:

1. Declare national goals for children who must become independent after aging out of foster care.

These goals should include:

- a place to live;
- opportunity to continue education;
- life skills training;
- employment or income;
- access to health care;
- adequate clothing;
- availability of records, including educational history, driver's license, citizenship status, foster care history, health history;
- ties to community mentors.

The state's plan to achieve these goals should be incorporated in the Title IV-E plan.

2. Encourage states to develop employment, housing and scholarship opportunities for emancipating foster youth.

States should be required in their IV-E plans to specify how they will target local, state, federal and private sector employment, housing and scholarship higher education opportunities for the special population of emancipating foster youth.

Some of the initiatives we are developing in Los Angeles include:

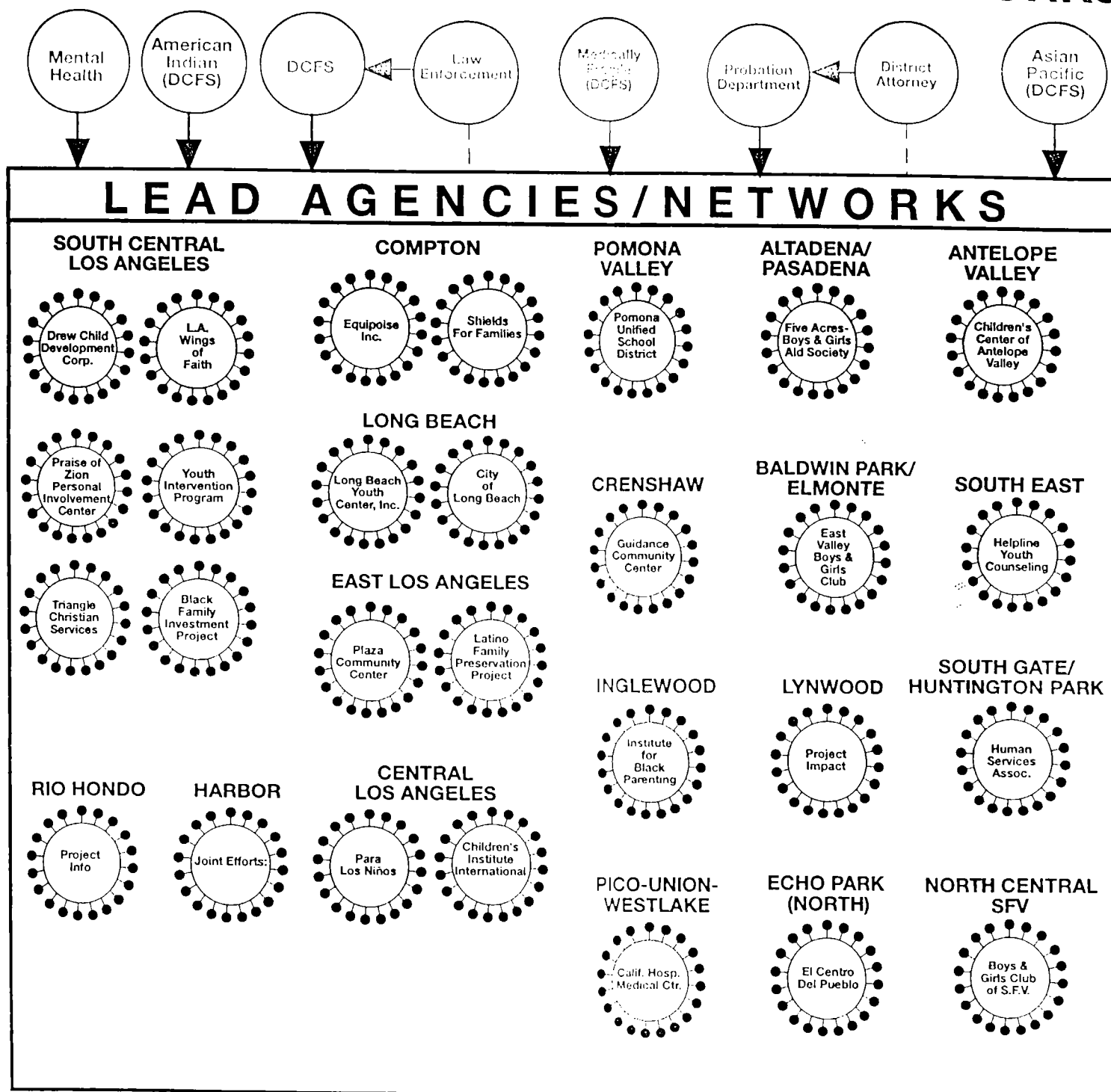
- blending public and private housing programs and foundation resources to create 400 apartment beds for emancipated youth, spearheaded by a very substantial grant from the Weingart Foundation;
- using the Job Training Partnership Act (JTPA) and the private sector to create jobs for all older foster youth. Targeted employment efforts should generate 2,000 jobs this year for older Department of Children and Family Services foster youth;
- encouraging local government and contractors to hire emancipating foster youth. My department has hired over 70 such youth with excellent results, including the use of 30 of them to be Emancipation Assistants to help younger children prepare for independence;
- encouraging blending private contributions with college, state and federal scholarships to enable emancipating foster youth to go to college. This year my department has requests from 500 of our 800 emancipating youth for college scholarship assistance, and we will be able to honor all of them, thanks to the generosity of our community.

These and other efforts would be enhanced if Congress would lower the age for participation in the Independent Living Program from 16 to 14 to allow us to engage youth earlier in preparation for this most difficult transition.

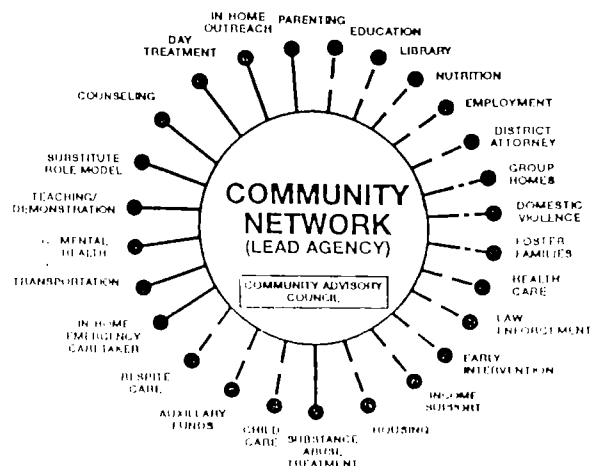
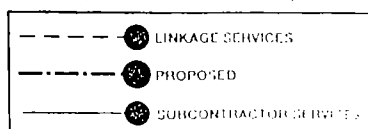
V. CONCLUSION

The Adoption Assistance and Child Welfare Act of 1980, supplemented by OBRA 93, laid a substantial foundation for child protection. However, the experience of the past sixteen years has shown numerous ways in which the law must be improved in order to increase child safety, emphasize legal permanency through adoption and create basic opportunities for foster youth who emancipate without legally permanent families.

COMMUNITY FAMILY PRESERVATION NETWORKS



COMMUNITY NETWORK MODEL
(Services Provided)





University of California, Berkeley

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The Importance of Legal Permanency for Children

Richard P. Barth, Ph.D.
Hutto Patterson Professor

Presented at

The 1996 Annual Conference on Legal Permanency

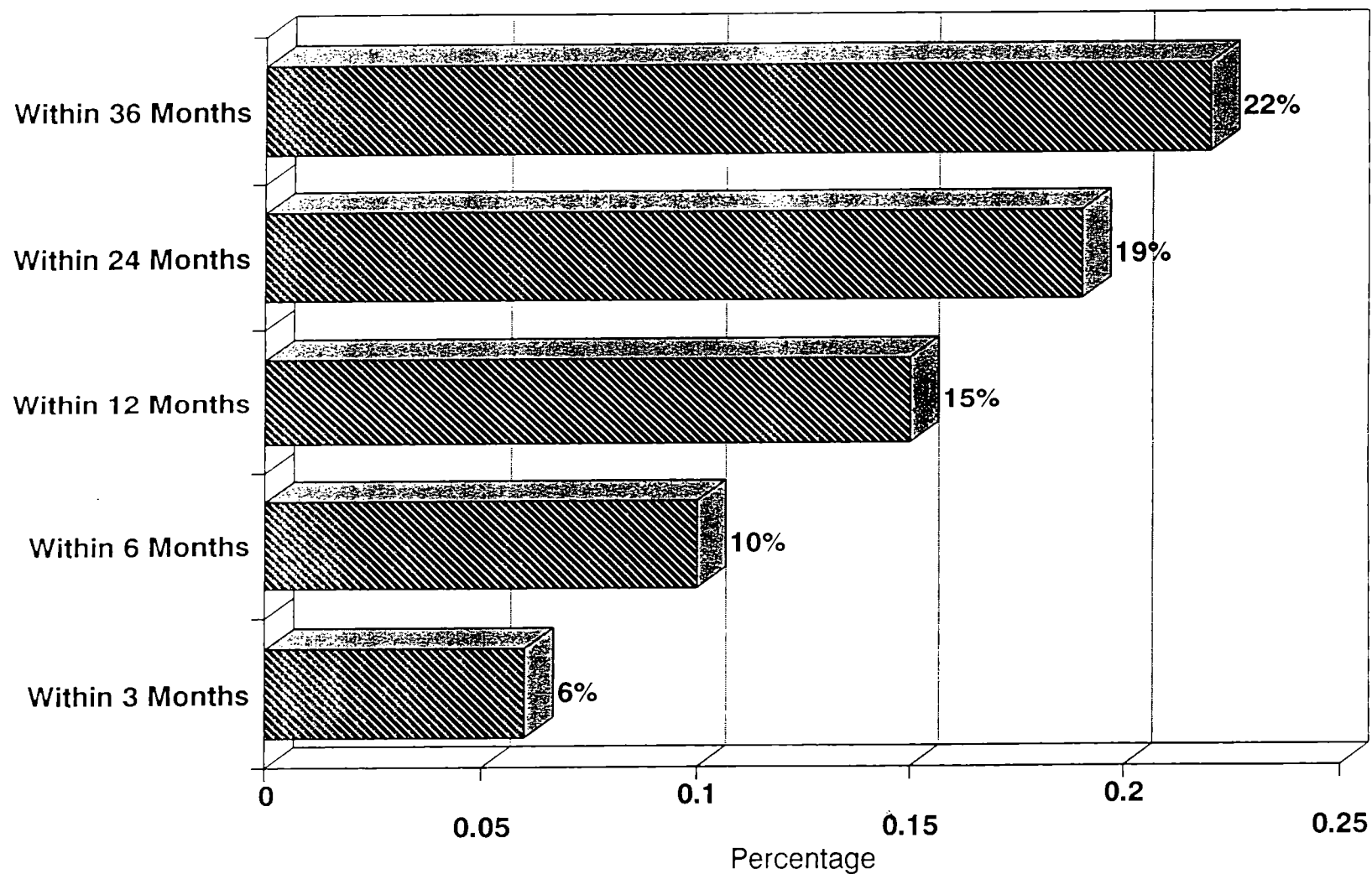
Los Angeles, California
June 5, 1996

Funding for the research upon which this keynote was based was supported by the California Department of Social Services, the David & Lucile Packard Foundation, and the Children's Bureau of the U.S. Department of Health and Human Services.

Fos Care Re-Entry After Reunification

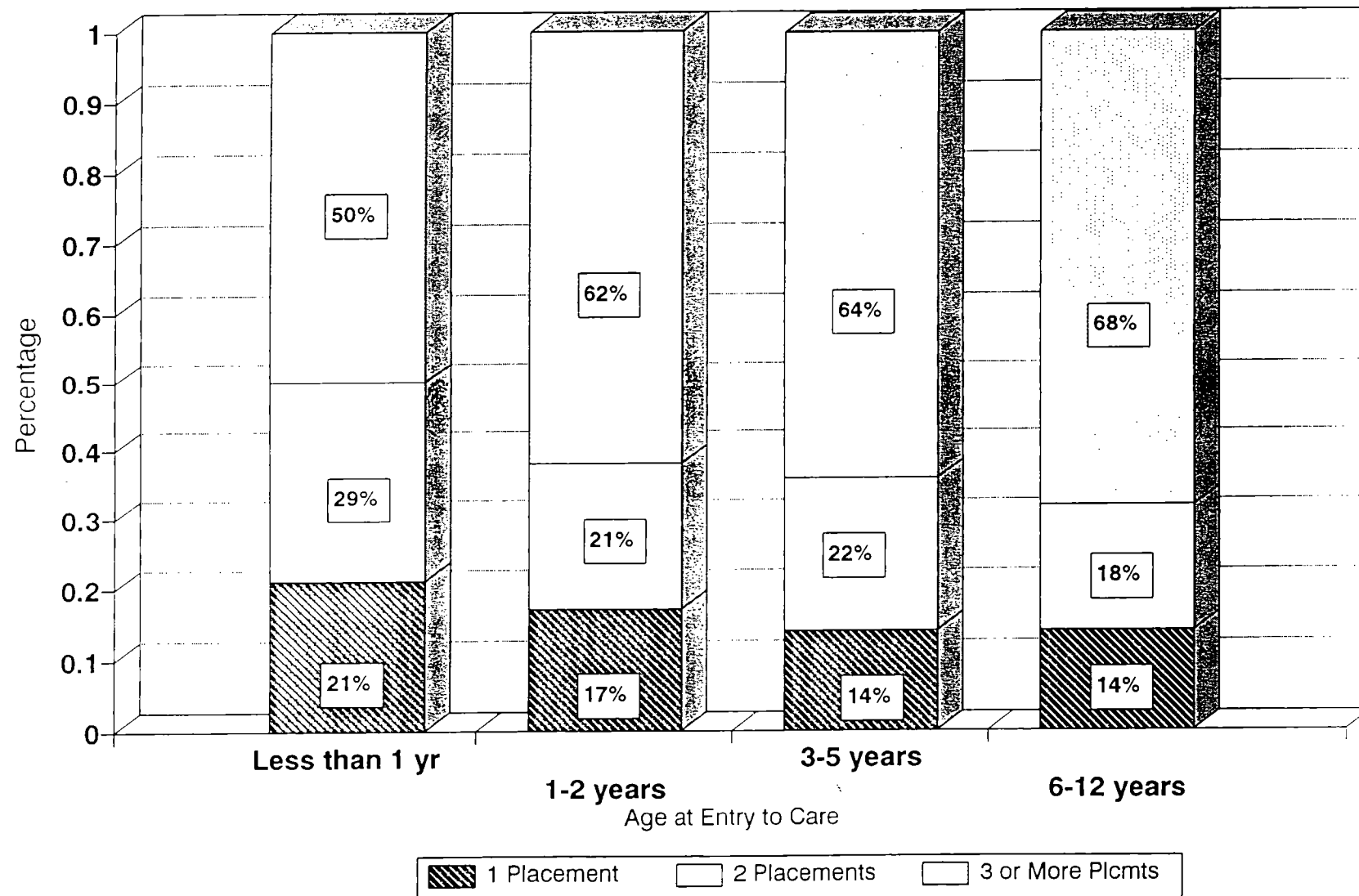
Calif Cumulative Probability Totals

For Infants



Placements After 6 Years in Foster Care

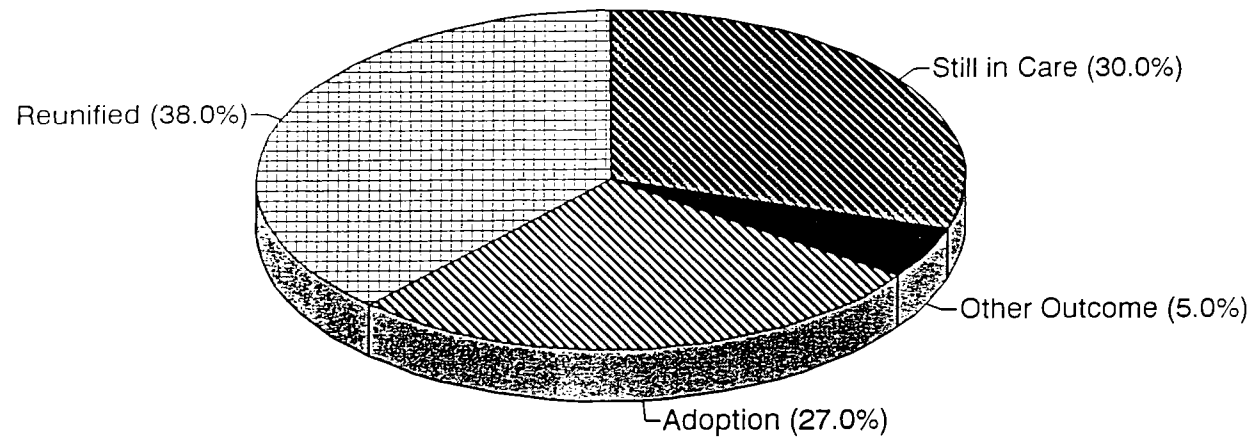
Non-Kin Foster Care Placements



Outcomes at 4 Yrs: Non-Kin Foster Care

Infant < 1 Month Old @ Foster Care Entry

CALIFORNIA



DEPARTMENT OF CHILDREN AND FAMILY SERVICES



SPECIAL INFORMATION

FOR IMMEDIATE RELEASE TO STAFF AND POSTING ON EMPLOYEE BULLETIN BOARDS

To: All Staff
Each CFPN Director
Each IUC Dean
Each IUC Center Director
IUC Director

March 12, 1996
(Reissue of New Year's Day, 1996
May Day, 1995
November 1, 1994
September 1, 1994
September 1, 1993
New Year's Day, 1993)

OUR TOP PRIORITY IS CHILD SAFETY

As we implement the final Phases of our family preservation and family reunification resources (we now have 23 programs -- see Attachment A), I want to stress that child safety continues to be our **top** priority. Family preservation or reunification services should be seen as means to eliminate risk to children and increase the safety of children in their own homes. Use of family preservation or family reunification services should always be governed by an overriding concern for child protection and child safety.

Implementation into practice of the policies contained in this Special Information Bulletin is so critical to our top priority of child safety that I am requiring that all managers review and be familiar with its content. I am also requiring that all managers train all their staff at all times as to the content and practice issues presented. In addition, all CFPN Program Managers should review these policies in detail with their staff, member network agencies, Community Advisory Councils and any others who may contribute to the protection and well-being of our children. This is also the top priority for all our IUC and other training.

The situation for children in Los Angeles is becoming more dangerous and will continue to do so because (see Attachments B and C):

- economic despair and stress are widespread;
- the number of drug-exposed babies is large and continues to grow;
- abuse/neglect reporting has increased vastly, especially dangerous physical and sexual abuse;

- welfare and Medi-Cal reform will drastically alter the economic and health care support of many families. Many more children will be ineligible for SSI and welfare, and many families will be confronted with grave stress and destitution.

This situation requires extraordinary caution and attention to child protection and child safety. Key procedures in being cautious and attentive include:

1. Child visitation (full compliance with all children) (citation: CSWH #GR 93-02, Visitation and Contact Requirements);
2. CHDP periodic exams and concerted follow-up care (citation: CSWH #HCI 93-07, Health Care Services for DCS-Supervised Children);
3. Making sure that there is a finding for each allegation (CIS 100) (citations: CSWH #ER 92-02, Completing the Initial Contacts on New Cases; CSWH #CP 93-01, Initial Case Plan; and, FYI #92-08, Revision of the CIS 100, Emergency Response Referral);
4. Timely ER response (citation: CSWH #CAP 1, Response Times);
5. DRA approval, as delegated by Paul Freedlund and the Regional Administrators, of returns of children under the age of five years (i.e., 0-59 months), per procedures (citations: CSWH #CP 93-01, Initial Case Plan; CSWH #CP 93-02, Case Plan Update; CSWH #IN 93-03, Taking Children into Temporary Custody; and, FYI #95-83 [Rev. 2/96], Enhanced Protection for Children Under the Age of Five Years);
6. All background checks, including CII, CIS/WCMIS, JAI, CAI, per procedures (citations: CSWH #Court 93-06, Clearances: CII, JAI, CAI and CIS/WCMIS; CSWH #Placement 92-02, DCS Certified License Pending Home; CSWH #Placement 92-03, Out-of-Home Placement with Relatives; and, CSWH #ER 92-02, Completing the Initial Contacts on New Cases). Include background checks on persons who may not live in the home but assume caregiver/ babysitting roles, such as girlfriends/boyfriends and non-custodial parents. Remember that all background checks must be completed for reunification or extended visitation, as well as at ER, if not previously completed within the six-month time frame authorized by policy. Make sure you understand and document the significance and meaning of the findings of the background checks, including a detailed analysis in all case plans and court reports;

7. Relative home studies and background checks (citation: CSWH #Placement 92-03, Out-of-Home Placement with Relatives). Include background checks on persons who may not live in the home but assume caregiver/babysitting roles, such as girlfriends/boyfriends and non-custodial fathers (citations: CSWH #Court 93-06, Clearances: CII, JAI, CAI and CIS/WCMIS; and, Special Information Bulletin entitled Child Abuse Index [CAI]: Clearances for Relative Placements, dated March 12, 1996). Make sure you check the garage and all areas of the home and property for safety (citation: FYI #95-81 [Rev. 2/96], Additional Requirements for Relative Placements);
8. Use of the DCFS 550, Body Chart, per procedures. Get medical help in physical abuse assessments, as required. Follow our procedures regarding diagnostic imaging. Often, old broken bones and injuries are hidden. Use our nurses in each office fully to obtain needed professional opinion, resources, and technical assistance (citations: CSWH #ER 92-02, Completing the Initial Contacts on New Cases; CSWH #HCI 93-08, Public Health Nursing Component of the Protective Services Child Health System; and, FYI #96-29 [Rev. 2/8/96], Diagnostic Imaging: A Requirement of the Medical Examination for Physical Abuse & Severe Neglect Cases);
9. Limiting the number of kids in foster home placement locations to six, unless the RA approves an exception (citations: #AD 92-10, Capacity in Relative or Foster Family Home Placements; and, CSWH #92-03, Out-of-Home Placement with Relatives);
10. Use of VIP and ensuring that all homes are within licensed capacity and properly licensed for the type of child(ren) placed (citations: FYI #93-23, VIP Plan to Verify Population and Capacity in Foster Homes - Vacancy Information Placement [VIP]); and, FYI #96-17, Technical Assistant Expanded Responsibilities);
11. Supervision of medically/technologically complex kids by our Medical Placement Unit (citations: CSWH #HCI 92-01, Medical Placement Unit Intake and Assessment Criteria; and, FYI #95-47, Medically Fragile Children), or a placement plan approved by Amaryllis Watkins only.
12. Risk assessments (citations: CSWH #ER 92-02, Completing the Initial Contacts on New Cases; and CSWH #CP 93-01, Initial Case Plan);
13. Use of County Counsel to appeal adverse decisions when children are endangered (citation: CSWH #Court 91-01, Adverse Decisions by the Court. Note: This CSWH will soon be cancelled and replaced by CSWH #Court 95-03,

Adverse Court Orders/Decisions). In this regard, court officers have a very central role to perform in assuring that all "Safety Czar" procedures are adhered to (citation: Peter Digre memos to Management Forum dated 10/24/95 and 10/26/95);

14. Careful use of the disrobing protocols (citation: CSWH #SD 95-01, Disrobing Children);
15. Full use of new in-home services, such as child care and family preservation. THESE SERVICES SHOULD BE USED VERY EXTENSIVELY WHENEVER YOU HAVE CONCERNS ABOUT CHILD SAFETY. THEY SHOULD ALMOST ALWAYS BE USED FOR REUNIFICATION. ALSO BE LIBERAL WHEN 1) SETTING LEVELS OF SERVICES AND 2) AUTHORIZING SERVICE EXTENSIONS. ERR ON THE SIDE OF TOO MUCH SERVICE!!! **ALSO**, BE CAUTIOUS TO NOT RETURN CHILDREN HOME FASTER AND IN GREATER NUMBERS THAN PARENTS CAN MANAGE. REMEMBER THAT INFANTS AND TODDLERS CREATE SPECIAL STRESSES. ALSO, PREGNANCY CAN BE A TIME OF EXCEPTIONAL STRESS. (citations: CSWH #92-03 [Revised], Protective Services Child Care; CSWH #SP 93-02, The Family Preservation Program). Also, remember that DRA signatures are required when returning children age 0-59 months home or allowing them to remain in their home (citation: FYI #95-83 [Rev. 2/96], Enhanced Protection for Children Under the Age of Five Years);
16. Make sure all kids in placement have a Medi-Cal card at all times (citation: FYI #92-33, Medi-Cal Card Issuance). SDHS will now do immediate HMO disenrollment (citations: FYI #95-82, Immediate HMO Disenrollment; FYI #96-17, Technical Assistant Expanded Responsibility; and, Memo from Peter Digre to All Staff, Dated 12/21/95, Regarding HMO Disenrollment);
17. In general, be very cautious about use of VFM in recent sexual or physical abuse cases. You will usually need the support of a court order (citations: CSWH #CP 93-01, Initial Case Plan; CSWH #CP 93-02, Case Plan Update);
18. IF A FAMILY DISAPPEARS OR MOVES AND YOU CANNOT FIND THEM, GET A PROTECTIVE CUSTODY WARRANT IMMEDIATELY AND DO A DUE DILIGENCE TO FIND THEM (citations: Dependency Handbook, Sections 36675-36680.4; Children's Services Handbook, Sections 5500-5570); and,
19. SCSWs should hold at least semi-monthly professional case conferences with all CSWs to deal with safety, permanency and other professional case issues. RAs/DRAs should conduct at least monthly professional discussions with all staff regarding safety, permanency and other professional issues.

Additionally, I would like you to consider the following casework issues as you provide services to our families:

The first issue is that of other adults who live in or are in and out of the home, OR WHO LIVE OUT OF THE HOME BUT FUNCTION AS CAREGIVERS/BABYSITTERS (this includes such persons as non-custodial parents, boyfriends, girlfriends and other significant others who may have contact with the child). These relationships may be of short duration, and the children may be seen as "in the way." This may lead to impatience and anger on the part of a live-in or visiting adult. Keep in mind also that children's behavior, especially those under age six, will become more clinging and demanding of the parent's attention when a stranger moves into the family. Consequently, a dynamic may be set up where the other adult and the child may become competitors for the parent's attention and affection. This can be a dangerous situation in that the child may become a target of the rage.

Understanding the sociopathic personality is the second critical protective and child welfare issue addressed here. Keep in mind that what is said concerning sociopathic behavior can apply to parents, stepparents, other live-in adults or caregivers. Do not look for any obvious signs of neurosis or psychosis in sociopaths. They may, in fact, come across as charming and even have a disarming attitude of over-protectiveness and cooperation. This behavior is exhibited to mislead the Children's Social Worker, who may also become the object of charm and superficial civility. Not being aware that this extreme cooperativeness may be a cover for abusive behavior has led to tragedy in some instances. Sociopaths will go to extremes to hide abuse of their children, so diligence is required. They will tell workers anything that they think the workers want to hear, and will appear to be "making progress." You may find yourself proud of the power of your services to change lives, while the abuse continues.

What are the practice implications for these two situations? When either condition is present, always consider their impact before deciding that the home is safe for continued placement or for reunification of the child. In the case of suspected sociopathic behavior, check the history very thoroughly. (Sociopaths may use different hospitals in order to cover their tracks.) Get professional diagnostic support from clinicians. Check medical records. Have the child medically examined in reports of physical or sexual abuse. Look for patterns of inconsistencies in attachment, bonding and affect. Be skeptical of problems that are too readily resolved. Demand a thorough and complete explanation for all injuries to the child. Get diagnostic imaging to check for old injuries. While an accurate history is critical in identifying this personality, keep in mind that sociopaths have probably fooled others before you, so look closely at unfounded reports, a pattern of "accidents" and "sibling" or "self-inflicted" injuries. Never accept the excuse that the baby is sleeping or otherwise unavailable so you can't

see him/her -- SEE AND EXAMINE THE CHILD! Make sure you see every child every time you visit.

Interviewing the sociopath becomes extremely important to the future safety of the children. If the relationship between adult and child is exploitive, then count on the interview being exploitive. Sociopaths will avoid accountability and responsibility at all costs. Expect them to reduce any stress or tension on themselves by directing the interview elsewhere. Therefore, the interview can be distorted, if not misleading, because the sociopathic client may be quite adept at pointing you in the wrong direction. The interviewer must be confrontive and challenging and the questions must be precise, direct and to-the-point. You may find many people around the sociopath supporting his/her version of the facts, because they are either charmed or part of a sociopathic network.

All staff should be aware that, when confronted, sociopaths often respond with narcissistic rage. They can become violent, not so much because they have hurt a child and have been caught, but because their own sense of self-importance has been injured. The humiliation of continuing to be considered a perpetrator despite their tactics causes intense hostility that can erupt into rage. Keep this in mind at unsupervised visits and in home and field interviews. Court orders are often useful against these perpetrators, as they respect or fear the power of the court to intrude into their lives.

Many of our families have serious and deep life patterns of violence and addiction. Compliance with a case plan may or may not indicate that these long-term patterns have been altered. Careful analysis and cautious professional judgment is always needed to ensure that the risk factors are eliminated.

Finally, PLEASE BE CAREFUL TO ANALYZE THE SIGNIFICANCE OF PREGNANCY IN YOUR ASSESSMENT. Pregnancy may be a time of great physical, familial and/or economic stress which may lead to behavioral changes. It should always be a factor for consideration in risk assessment and family preservation and family reunification planning. Beware of too rapid reunification planning during pregnancy. Small children and pregnancy are a stressful mix to all of us!!!

In short, the following principles shall underlie decision-making and case activity:

- follow all child safety procedures;
- our first concern is always protection of the child;
- be extra vigilant always, especially when other live-in or non-live-in caregiver/babysitter adults are present;

- recognize that those who charm you with their progress may require careful analysis;
- hope for progress must be balanced with analysis backed up with facts;
- compliance with the case plan must be analyzed with cautious professional judgment to make sure risk factors are eliminated;
- examine the children. Do not be put off by excuses that they are sleeping or otherwise unavailable;
- evaluate the impact of pregnancy as an added stress on the family; and,
- increased economic stress is increasing abuse and neglect and the severity of abuse and neglect.

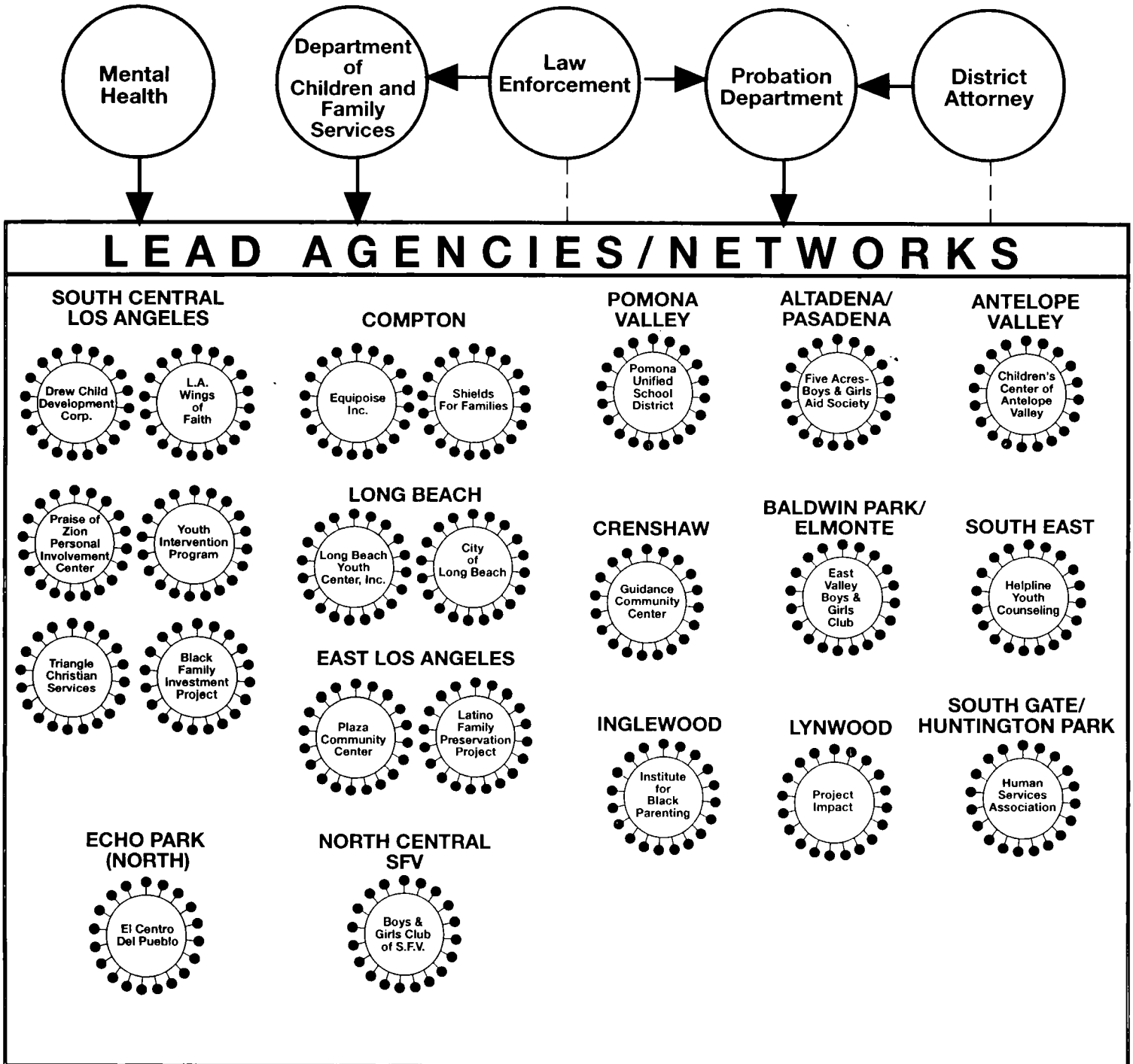
I firmly believe that we can enhance our ability to protect children by following the guidelines discussed in this Bulletin. By combining basic child protection steps with casework skills, we will be able to increase the safety of children in our County.



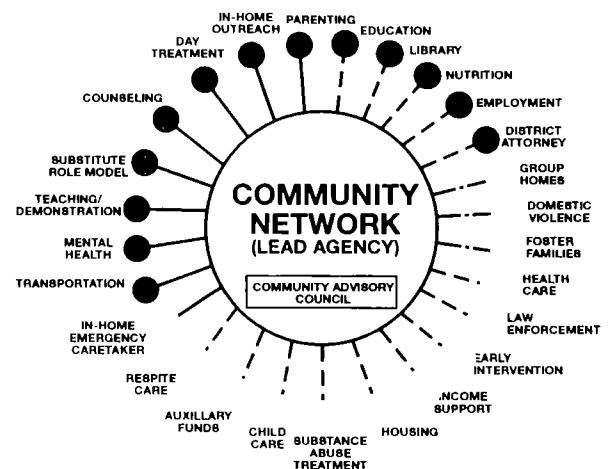
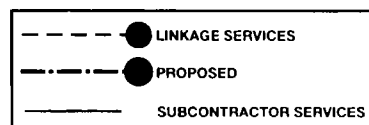
PETER DIGRE, DIRECTOR

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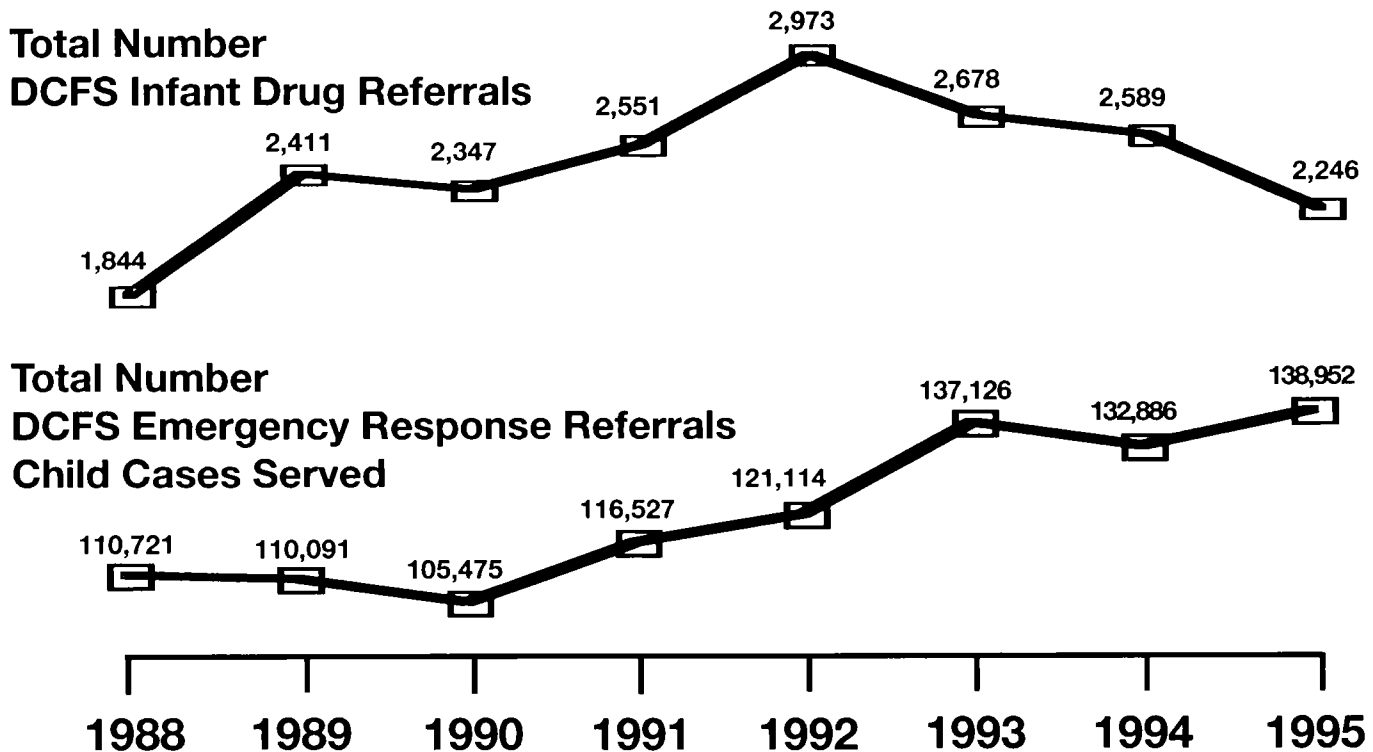
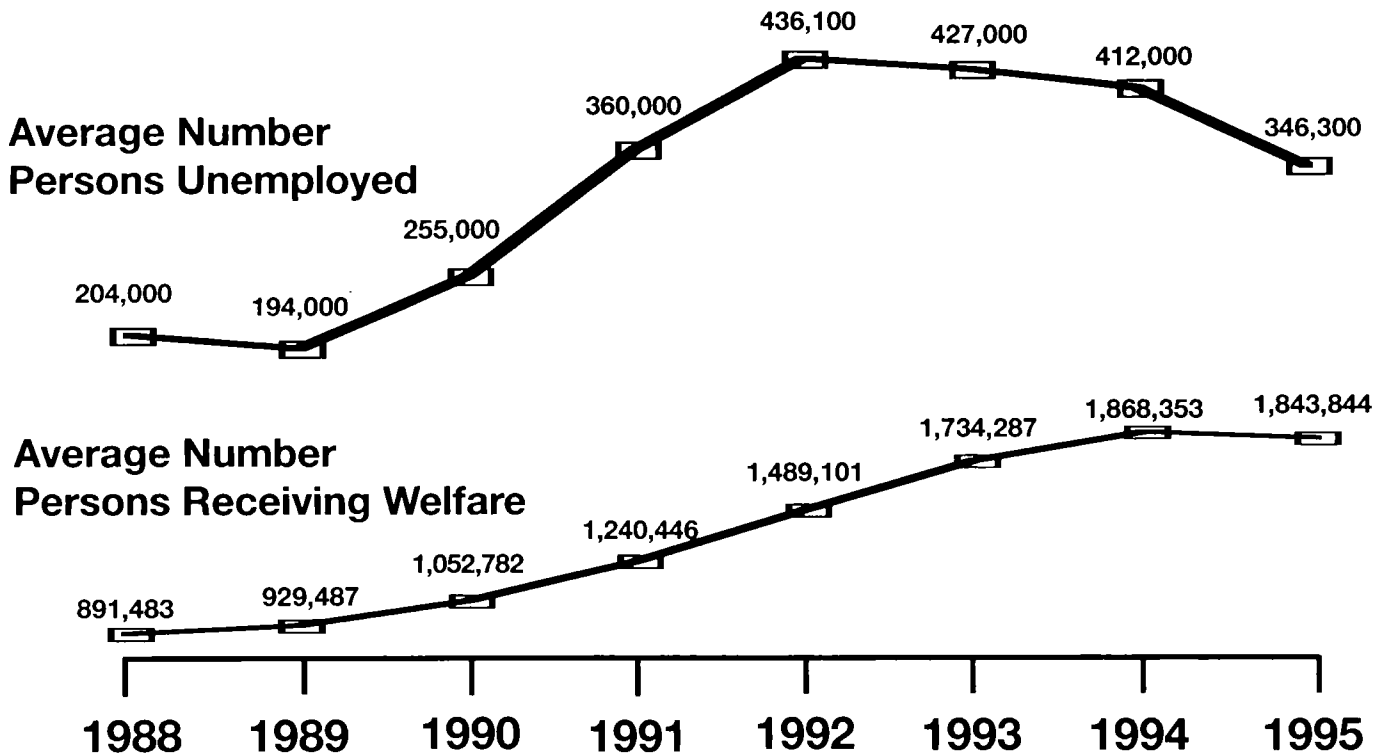
COMMUNITY FAMILY PRESERVATION NETWORKS



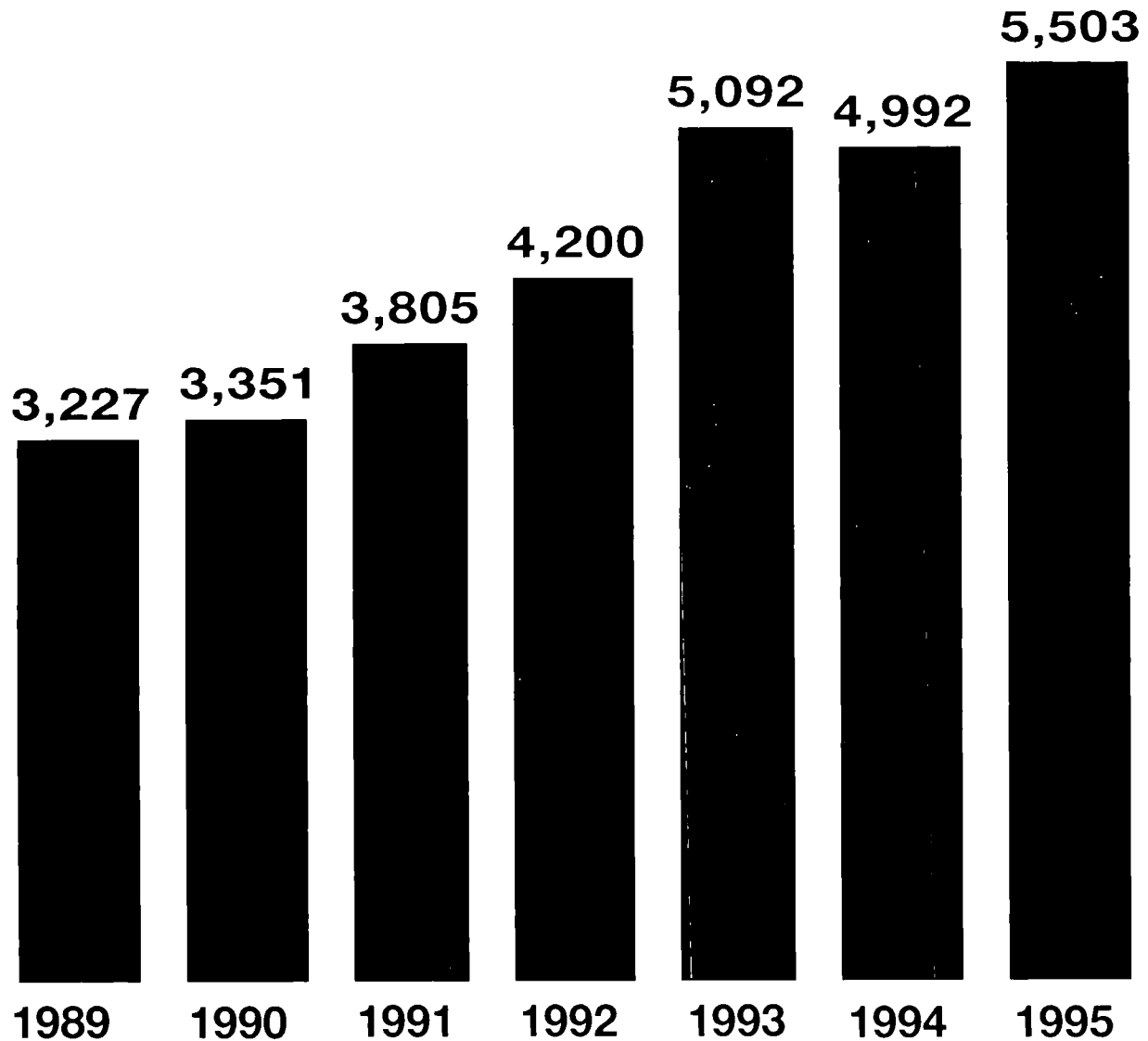
**COMMUNITY NETWORK MODEL
(Services Provided)**



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



**Average Monthly Emergency Response Services
for Physical Abuse
In The County of Los Angeles**



**Statistics Provided By the County of Los Angeles
Department of Children and Family Services**

DEPARTMENT OF CHILDREN AND FAMILY SERVICES



SPECIAL INFORMATION

FOR IMMEDIATE RELEASE TO STAFF AND POSTING ON EMPLOYEE BULLETIN BOARDS

TO: All Staff

April 23, 1996
(Reissue of Labor Day, 1995)

**OUR FIRST PRIORITY IS SAFETY
AND
OUR PRIMARY MISSION IS LEGAL PERMANENCY**

Achieving legal lifetime permanency for children is the primary mission of DCFS in any interaction with children and families. Our first concern remains the safety of children. No action should ever be taken which puts a child at jeopardy. However, legal permanency is an essential component of developmental, psychological and economic safety for children. No child can ever feel truly safe and secure when he or she can be taken from a placement at any time with little warning. This feeling of insecurity is deeply detrimental to a child's development and may have lifelong consequences.

The increasing numbers of children entering the child welfare system nation-wide who remain in foster care until adulthood has created serious community concern about the fate of these children. Our Department shares this concern and has renewed its efforts to increase the incidence of legal permanency and refocus our attention on the importance of achieving legal permanency for our children.

Legal permanency is achieved when a child is safely reunified with his/her parents or, when reunification is not possible, the legal relationship of adoption has been established. The child should be assured that no governmental agency, including DCFS, can intervene to remove him or her from home without legally sustainable allegations of abuse or neglect. Similarly, the parent should not be able to divest him or herself of responsibility to the child at will. While it is clearly true that some biological parents abandon their children and some adoptions are rescinded, the intention of a legally permanent family is to live permanently as a family. ¹The hallmarks of permanency are the parents' legal and personal responsibility for the child, an intent on the part of the parents and family to make

¹ Our statistics indicate that the number of finalized adoptive placements that disrupt is significantly lower than the disruption rate for legal guardianship situations. "Statewide in the last two years there was an average of only 14 total setaside petitions (which are filed to legally nullify a finalized adoption) versus a statewide rate of 8% (or 1 out of every 12) for guardianship disruptions." SOURCE: CDSS and CWDA 1994 Permanent Placement Caseload Survey. "In terms of stability of foster placements, a 1994 survey by CWDA found that statewide 9.4% of PP children had 6 or more placements during their current stay in the system with 76.7% of the PP children having between 1 and 3 placements. The same survey showed that 23.3% of the PP children statewide had spent over 5 years in placement. Another 22.3% PP youth had been in placement 3 to 5 years." SOURCE: CWDA 1994 Permanent Placement Caseload Survey.

a lifelong commitment to the child, and the family's autonomy from interference from outside governmental agencies. The ultimate goal is for children to have stable nurturing families on which they can rely throughout their lives.

The value of permanency lasts a lifetime. Unlike legal guardianship or long-term foster care, a permanent family has a lifelong responsibility to a child. A permanent family also provides a sense of personal and social identity. Permanent families provide economic, psychological and emotional support and security long after the child reaches the age of 18. A permanent family is where one can go in times of crisis as well as times of joy. A permanent family maintains ongoing concern for a child and an emotional connection with that child throughout all major life events. In other words, a permanent family is truly a home, and as Robert Frost said, "Home is where, when you go there, they have to take you in." Most children who emancipate from non-legally permanent care have none of these advantages. These young people are at severe risk of homelessness and destitution when common life crises occur such as loss of a job, dropping out of college, or a major illness.

The preferred goal for every child should, therefore, be to live in a legally permanent, autonomous home. In many cases, the most obvious way to achieve permanency is for the child to remain with, or return to, his or her parents. The law, Departmental policy and good social work practice all favor preserving or reunifying families, when that can be done safely,² as the preferred form of legal permanency. Nothing in this bulletin or in any other Department policy contradicts that principle. This is a primary reason for the Department's major efforts to develop intensive family preservation and support resources and to strengthen families in preparation for returning the child to his or her home. The Department has shown its commitment to this principle through major efforts to develop intensive family preservation and support resources and to strengthen families in preparation for returning children to their homes. However, as we all know, not all children can return safely to their families.

If return home cannot be safely accomplished, the decision to move forward with adoptive planning should be made. Adoption provides legal protection and permanency for the child as well as a sense of belonging and an opportunity for the child to identify with and form permanent emotional attachments to a family. All children are potentially adoptable as long as there is a family willing and able to adopt and the child is willing to be adopted. It is our responsibility and moral obligation to seek an adoptive family who can best meet

² The idea of safe return home is critical. It is not necessarily the case that a child can return home safely simply because the parent(s) have fulfilled the requirements of the case plan. A recommendation to return home should not be made unless the caseworker is confident that the child will not be re-abused or re-injured. See "Our First Priority is Child Safety" and In Re Joseph B. 96 Daily Journal D.A.R. 1891 (2-22-96) "Consistent with the purpose of the dependency scheme, the question whether to return a child to parental custody is dictated by the well-being of the child at the time of the review hearing; if returning the child will create a substantial risk of detriment to his or her physical or emotional well-being (secs 366.21, subd. (c) & (f), 366.22 subd. (a) placement must continue regardless of whether that detriment mirrors the harm which had required the child's removal from parental custody (1894).

the needs of each child under our care who cannot return home and to plan together for the future of these children.

It is often difficult to determine with certainty at any given time that a child will never be able to return home safely. Because we recognize the importance of family ties, we try to give a family every opportunity to create a safe environment for its children. At some point, however, when families do not improve in a timely manner, a decision has to be made to find another permanent home for a child. Federal and State laws define relatively narrow time limits for family reunification. These limits were developed to prevent children from growing up in foster care without permanent homes and families.

Attempting to be lenient in the application of these laws does not serve our children well. Our own statistics show that the likelihood of a family reunifying declines sharply after the first 18 months to 2 years that the child is in care. Giving a family an open-ended period of time to reunify directly defeats the purpose of the law by delaying effective planning for the child's future and apparently does not substantially increase the chances that the child will go home.

The law and good practice clearly establishes a hierarchy of placement options for children who cannot return home which favors legal permanency over less permanent alternatives. If there is a qualified family willing to adopt the child, placement with that adoptive family is preferable to legal guardianship even if the child must move from an existing foster home to a new adoptive placement. This principle holds true regardless of the child's "bonding" with the potential guardians. While it is extremely undesirable to continually move a child, there is lasting value to moving a child from a temporary placement to a permanent one. We clearly accept this view when the move is from foster care to the child's own family. This is no less true for a legally permanent family newly created through adoption.

Relative guardianships present a different situation. Although a child in relative placement does not have a legally permanent home, the kinship relationship is permanent. So, in many instances, relative guardianships do provide the psychological and social permanency that is the goal for every child. For this reason, in many cases, but not all, relative guardianships may be an exception to the rule that a permanent placement is always preferable to one that is less than permanent. As with all permanent placement decisions, a thorough assessment must also be done to determine if this is the best home for the child. On the other hand, unrelated legal guardianship does not provide the assurance of permanency for a child. The decision to choose guardianship over adoption represents a conditional commitment to the child rather than a permanent one.

Long-term foster care provides the least stability and security for the child of all long term placements and indicates the lowest level of commitment to the child. All too often these placements are temporary and the child moves many times. The resulting lack of permanency or belonging can lead to isolation, despair and ultimately withdrawal from society.

The fact that a young child is "bonded" to a foster family that is unwilling to adopt him or her is not an acceptable reason to eliminate the possibility of adoption for that child. By leaving the child in a placement that is, by its very nature, a temporary situation, we risk the possibility of a later move which could prove to be even more psychologically damaging. We must also question the message being given and the one-sided nature of this "bonding". Are we telling the child that although he or she may be bonded to the foster parent, the foster parent is not sufficiently bonded to him or her to make a long-term commitment? Children in this situation cannot feel that they are fully wanted and permanent members of a family. Too often the decision to leave a child in long term foster care is based on the short term desires of the caretaker, rather than a long term life plan for a child.

The research on bonding demonstrates the importance to infants of developing emotional bonds with a parent figure. This bonding forms the basis for the development of intimate attachments later in life. Like language development, bonding is a skill or psychological task which must be accomplished during a critical period. The issue is not the specific bond that is formed, but rather the learning of the ability to bond. Works such as Beyond the Best Interest of the Child view bonding as a way of determining who is a psychological parent for custody purposes. The research is clear that "bonding" is not the only factor to be considered when placing a child in a home. The fact that the child has bonded to one adult is, in fact, a positive indication of his or her ability to attach to an adoptive family. While it may be deemed preferable to maintain an established psychological bond with the foster family, permanency is of far greater importance to the child's future life and well-being.³

The principles outlined in this bulletin do not preclude a reasoned look at individual cases in light of the law and good social work practice. For example, the law recognizes that the children over the age of twelve may choose not to be adopted and respects that choice. For older children with strong attachments to their families, this may be the correct decision. On the other hand, we should not presume that no older child wants to be adopted. Both individually and as a department we must make efforts to find creative solutions that provide permanency consistent with each child's individual needs. We must be vigilant in ensuring that we are actually looking at the needs of the child and not our own needs or desires or those of the caregiver.

We have the opportunity to touch the lives of the children and families with whom we work in a way that few others can. The decisions we all make now will affect these

³ See: Berrick, Needell, Barth and Jonson-Reid, "The Tender Years: Toward Developmentally-Sensitive Child Welfare Services for Very Young Children", CWRC, March, 1996 pp. 1-6 - 1-9 and sources quoted therein.

children's lives forever. All of our children deeply need, long for, and deserve legally permanent parents. The achievement of our mission and the very value of our professional lives depends on our success in ensuring that all children are provided with the security and emotional well-being that comes from being part of a legally permanent family.

A handwritten signature in black ink, reading "Peter Digre". The signature is written in a cursive, flowing style with a large initial "P" and "D".

PETER DIGRE, DIRECTOR

Testimony of Patricia Warendt, Fort Lauderdale, Florida

June 27, 1996

before the Committee on Ways and Means,

Subcommittee on Human Resources

Chairman Shaw and other distinguished Members of the Subcommittee on Ways and Means: My name is Patricia Warendt. thank you for inviting me to testify before you today on behalf of my granddaughter Skye who on four separate occasions the courts and social workers have placed in our home because of the treatment that she has suffered at the hands of her biological parents. I am the maternal grandmother and on five additional occasions my daughter and her husband have voluntarily surrendered Skye to our care and custody. Our granddaughter is currently 42 months old, during her lifetime we have cared and protected her for 29 months. Seventy percent of her lifetime she has spent in the safe secure environment of our home.

Let me briefly give you a snapshot of Skye's situation which I believe is caused by the federal law persuing "reasonable efforts" provisions to keep families together despite chronic substance abuse, child abuse and neglect, and failure of court ordered family therapy.

Skye was born December 24, 1992 in Sarasota County, Florida. Her biological parents have been unemployed due to drugs essentially since her birth. They have been evicted from their apartment for selling drugs to minors. In May 1994 the Department of Human Resources intervenes into the family and removes Skye and places her with us. The biological parents are ordered to attend family assessment, drug testing and family therapy in July, and in September the court orders Skye returned with the parents awarded temporary

custody.

This return was based on the belief that children always do better with their biological parents. This return was based on someone's interpretation of a family reunification plan. This return was not based on evidence that the biological family had given up drugs or been successful in family therapy. After all the removal and return all in place in less than two months - hardly enough time for a miracle.

Nine months later the courts awarded the biological parents full custody despite the fact that none of the prior stated court requirements such as drug testing, counseling or therapy proved successful.

Six months later Skye is left with neighbors for one week abandoned by her parents with the excuse that "they were going to the store".

So now you see the pattern of abuse that Skye has endured both from her parents and from the social workers who insist on reunification plans. Currently the federal law has been interpreted as family rights over children's safety and protection and whenever that interpretation is made----- children lose. Currently our laws protect the rights of the parents allowing them unlimited attempts at reunification without regard to the lack of stability that this creates for the children.

In conclusion, let me say that my case is not an isolated one but one that represents thousands of children across the country raised by relatives - grandparents, some raised by foster parents what is important here is that when children and caretakers have formed bonds those bonds should not be disrupted. Clear time frames need to be established to clarify the definition of the reasonable effort statute.

Thank you for hearing my testimony and please draft legislation that places children first. Help make Skye the limit of the children trapped in the legal system.

enclosures

chronological order of events of Skye's life enclosed

CHRONOLOGICAL ORDER OF EVENTS OF SKYE'S LIFE

- * December 24, 1992 - Skye is born in Sarasota County, Florida
- * August 1993- Skye's biological parents moved from Sarasota to stay in our home in Broward County, Florida because parents were unemployed with no shelter or money for food, maternal grandparent's provided the money needed for food, shelter, and clothing during this period of time
- * December 1993- Both biological parent's fired from their jobs for drug abuse, they were evicted from their apartment for none payment of rent and dealing drugs to minors from the apartment
- * January 1994- biological parent's living in the back of a van
- * January 1994-biological parent's gave Skye over to maternal grandparents while they continued with a lifestyle based on alcohol, drugs, and sexual abuse
- * April 1994- biological parent's took Skye to live with them in an apartment with which they shared with 2 herion addicts, the addicts at that time were also charged with dealing drugs. At the age of 16 months Skye was now frequently left alone by her parent's in the house or in the care of the 2 herion addicts who did drugs in front of her
- * May 1994- due to reports from neighbors H.R.S. investigates for physical abuse, neglect, nutrition, inadequate surroundings for a minor
- * May 1994- as a result of H.R.S. investigation parent's turn Skye over to maternal grandparent's
- * June 1994-biological father arrested for buying crack cocaine with food stamps

- * June 12, 1994- Skye placed in the emergency shelter of her maternal grandparents
- * June 15, 1994- Skye was placed with her maternal grandparents by H.R.S. court order, the court found at this time Skye lived in an environment of documented and admitted open drug use at her parent's home
- * July 12, 1994- parents court ordered to attend family assessment, drug testing, and therapy
- * September 8, 1994- Skye was returned by the courts to her biological parents under a temporary custody order with the stipulation parents and child were to reside in Broward County to attend the mandated programs recommended by the Child Protection Team report
- * September 8, 1994- maternal grandparents are granted liberal, regular unsupervised visitation with Skye by the court
- * September 9, 1994- biological father violates court order and returns to Sarasota County
- * December 1994- biological mother violates court order and returns to Sarasota County
- * February 1995- biological parents receive full custody of Skye via the court, although NONE of the prior stated court requirements such as drug testing, counseling, and therapy were fulfilled by the parents
- * February 1995- maternal grandparents granted liberal, regular, unsupervised visitation by the courts
- * February through August 1995- Skye resides almost exclusively with her maternal grandparents with occasional visits to her parents, this was due to a variety of reasons in her parents life including:
 - * parents had no money for food
 - * physical and verbal encounters between parents
 - * admitted drug problems of parents
 - * unemployment both parents
 - * no shelter due to eviction of parents
- * August 26, 1995- a neighbor of biological parents in Sarasota County notifies maternal grandparents Skye had been abandoned by her parents 1 week prior with the statement "they were going to the store", maternal grandparents pickup Skye in Sarasota County
- * August 28, 1995- doctor appointment for Skye reveals she has head lice, thrush, and a throat infection

- * August 27, 1995- maternal grandparents via a phone conversation with biological mother confirmed she had been "drinking heavily, using crack cocaine, pot, and various pills"
- * August 27, 1995- biological mother flown to Fort Lauderdale by her parents in an continuing effort to assist in starting over a new life, when mother states she has confirmed proof biological father has been sexually abusing his 15 year old daughter from a prior marriage
- * * During this period of time it is discovered by maternal grandparents additional events surrounding Skye while in the presence of her parents these include;
- * Skye fell in the swimming pool twice with no adult supervision
- * biological father and 1/2 brother hung Skye by her ankles over the toilet dunking her in and out of the bowl for punishment
- * Skye was left alone often when she was asleep, while her parents went out
- * Skye ate cocaine that had been left out by her parents
- * Skye's mother shoplifts in her presence
- * parents beat Skye when she gets in their way while their doing drugs
- * parents argued with Skye in the car and mother kicked in the windows spraying glass all over Skye
- * father threw an alcoholic drink on Skye during an argument with mother
- * Skye was asleep in the room during a multi-partner sexual situation of the fathers
- * Skye refers to her daddy's "weiner" and her half brothers (age 15) "weiner"
- * September 18, 1995- biological mother returns to Sarasota
- * October 31, 1995 biological mother has a restraining order and divorce injunction processed against biological father citing domestic violence (maternal grandparents pay for attorney)

- * November 14, 1995- H.R.S. caseworker phones to see if Skye was in the custody of maternal grandparents, two visits to maternal grandparents home to visit with Skye reveal in the custody of grandparents Skye is "healthy, happy, safe, and well cared for"
- * December 1995- biological mother attempts suicide in Sarasota by slashing her wrists with a razor
- * January 13, 1996- biological mother arrives at grandparents home without notice to claim her "bambino" following a scene during which the mother appeared to be under the influence of drugs she removed Skye from the grandparents home, mother stressed grandparents could keep Skye if they gave her a "few thousand dollars"- Skye was removed by biological mother from the care of the maternal grandparents regardless of the fact Skye was sick with an allergic reaction
- * January 13, 1996 - January 15, 1996 (Holiday Weekend)- grandparents phone over a dozen agencies (repeatedly) to assist in the safe return of child who was in imminent danger
- * January 17, 1996- grandparents request emergency hearing for the custodial status of Skye
- * January 19, 1996- emergency court hearing in Broward County judge orders H.R.S. to immediately pickup Skye in Sarasota County 250 miles away, due to the fact "the child was in danger, take it to the media if necessary"
- * January 19, 1996 through January 22, 1996- H.R.S. in Sarasota County refuses to honor the Broward County judges pickup order
- * January 18, 1996- biological mother leaves Skye with biological father to return to her boyfriend
- * January 19, 1996-biological mother's boyfriend arrested for attempted suicide
- * January 19, 1996- biological mother arrested for stealing keys to handcuffs, off a police officer in the mental ward, while trying to free boyfriend
- * January 20, 1996 -biological father breaks into mother's boyfriends apartment and physically beats her at 4:00 a.m. in front of Skye, whom he had brought with him, while at the apartment uses a construction drill on personal items in the apartment stating "if the boyfriend was hear I would have drilled his brain full of holes, father left with Skye

- * January 21, 1996- father left a message on the machine of grandparents informing them he intended to kill the mother and the boyfriend
- * January 21, 1996 p.m.- biological mother phoned grandparents requesting their assistance to come to Sarasota County and help her get Skye back because the father had Skye in a crack house
- * January 21, 1996- grandparents arrive in Sarasota County
- * January 22, 1996- grandparents have difficulty finding Skye contacted the police department to enlist their assistance, the police department could not help without the H.R.S. in Sarasota
- * January 22, 1996- mother places restraining order on father in Sarasota County, contacts father's probation officer regarding the illegal actions of the father in this matter
- * January 22, 1996- parents arranged a meeting with each other and Skye, the police were notified of the scheduled arrival time of the father, when the father showed up 2 hours earlier than agreed upon, the police were not there to assist, following a hostile verbal exchange between the parents the father drove down the street with the mother and Skye hanging off the side of his truck door, during this situation he attempted to run down the maternal grandmother knocking her to the ground with his truck, mother and Skye fell to the ground and he left
- * January 22, 1996- grandparents return to Broward County with Skye bringing the mother and boyfriend with them
- * January 23, 1996- while preparing to go to court before the judge, H.R.S. and the police arrived at the grandparents home with a pickup order to place Skye in foster care, this order was based upon the original court order dated January 19, 1996, if the grandparents did not comply with the order regardless of the fact it was an error now that the child was safe, they would be arrested and placed in jail, following a phone call by the grandparents to the judge's secretary the court permitted Skye to be brought directly to court with the grandparents and the H.R.S.
- * January 23, 1996- upon arrival in court we were greeted before the judge with 6 H.R.S. attorney's from out of the county, 4 H.R.S. caseworkers, and a guardian ad-litem, at that time it was determined that an error had been made by the H.R.S. and a child's life had been in danger for at least the past 5 days, and that "H.R.S. would take full responsibility for their actions without pointing fingers at anyone in their office, and they would take action so that it would not happen to another child again"

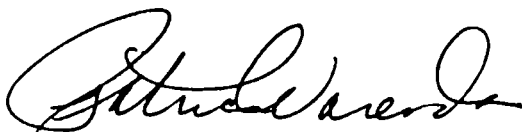
- * January 23, 1996- temporary custody of Skye was granted to the maternal grandparents by the court
- * January 24, 1996- a doctor's appointment for Skye on this date revealed she had a rash, thrush, 2 ear infections, and a fever of 102
- * January 30, 1996- biological father was arrested in Sarasota County for violation of probation, spousal abuse, and usage of crack cocaine
- * February 8, 1996- biological father has a court hearing regarding the custodial custody of Skye in Broward County, maternal grandparents were granted temporary, legal, and physical custody of Skye
- * February 12, 1996- biological father sentenced with 6 months jail time in Broward County
- * February 14, 1996- biological mother is cited for domestic abuse when she beats up her boyfriend in Broward County
- * February 22, 1996- following a domestic fight regarding lack of fidelity with the boyfriend the biological mother receives staples in her head wound, the boyfriend is in jail
- * March 7, 1996- mother involved in domestic dispute with her brother in law resulting in police involvement and her removal from the premises
- * May 10, 1996- biological father released from jail in Broward County early due to over crowding
- * June 1996- biological mother is pregnant again, although the biological father had a vasectomy over a year ago
- * June 14, 1996 through current- biological father makes harrassing phone calls to the home of grandparents
- * June 20, 1996- maternal grandparents are granted a temporary restraining order in Broward County due to harrassing phone calls from biological father- biological father served with restraining order in Sarasota County reflecting he may not call, write, visit, or have any manner of contact with maternal grandparents, Skye, or any of the immediate family
- * June 27, 1996- maternal grandmother testifies before the Committee on Ways and Means, Subcommittee on Human Resources, in Washington D.C. regarding the Reasonable Efforts of the Public Law 96-272, The Adoption Assistance and Child Welfare Act of 1980

- * July 3, 1996-court hearing in Broward County scheduled to grant the temporary restraining order as permanent for one year
- * July 18, 1996 - parents granted scheduled court date, due to letter from biological parents to the judge in the case, dated May 22, 1996 asking for custody of Skye, letter states parents are residing together with jobs, in truth parents were together for less than 2 weeks, both are unemployed, mother is back with boyfriend

In conclusion, our granddaughter Skye, is currently 42 months old, out of that period of time we have had the pleasure of having her reside in our care for 29 months. During these months she has thrived, grown, and experienced love. The remaining 13 months have been spent with one or both of her biological parents. Those months have been marked with tremendous episodes of fear, violence, personal jeopardy, risk, and mistrust. On 4 occasions the court has placed her well being with us. On an additional 5 occasions her biological parents have entrusted her well being in our care. Her family background reflects residing with her parents puts her in an atmosphere marked with domestic violence, theft, narcotics, harassment, sexual abuse, incest, neglect, abandonment, physical abuse, psychological abuse, and aggravated assault charges as part of the family's background. Currently our laws protect the rights of the parents allowing them unlimited amount of attempts of reunification without regard to the lack of stability these children caught in these situations experience. What constitutes reasonable efforts? We can't legislate love but why aren't children specifically given the right to a safe, permanent, loving, healthy homes?

Please help make our granddaughter SKYE, THE LIMIT! Draft legislation that places children first.

Children First,



Patricia Warena

Testimony:

Improving the Well-being of Abused and Neglected Children

Senate Labor and Human Resources Committee

November 20, 1996

Packet Includes:

Statement of Senator DeWine

Witness List

Witness Testimony

OPENING STATEMENT
U.S. SENATOR MIKE DEWINE (R-OH)
LABOR AND HUMAN RESOURCES HEARING
"IMPROVING THE WELL-BEING OF ABUSED AND NEGLECTED CHILDREN"
NOVEMBER 20, 1996

Good morning, and welcome to a hearing on what I -- along with a growing number of concerned social welfare professionals -- believe is a major threat to the health and safety of America's youth.

Too many children are spending their most important, formative years in a legal limbo that denies them their chance to be adopted -- that denies them what all children should have -- the chance to be loved and cared for by parents.

The job of finding parents for these children becomes infinitely more difficult the longer they are suspended in this foster-care limbo. Sometimes we focus our energies on fruitless attempts to reunify certain families that can't be fixed. As a result, these children lose the opportunity to find a permanent adoptive home.

We are sending too many children back to dangerous and abusive homes. We send them back to live with parents who are parents in name only -- to homes that are homes in name only.

We send these children back to the custody of people who have already abused and tortured them.

We're all too familiar with the statistics that demonstrate the tragedy that befalls these children.

Every day in America, three children actually die of abuse and neglect at the hands of their parents or caretakers. That's over 1200 children every year.

And almost half of these children are killed after their tragic circumstances have come to the attention of child welfare agencies.

Tonight, almost 421,000 children will sleep in foster homes. Over a year's time, 659,000 will be in a foster home for at least part of the year. Shockingly, roughly 43 percent of the children in the foster care system at any one time will languish in foster care longer than two years.

Ten percent will be in foster care longer than five years.

And the number of these foster children is rising. From 1986 to 1990, it rose almost 50 percent.

Too many of our children are not finding permanent homes.

Too many of them are being hurt.

Too many of them are dying.

Why is this happening? Obviously, many factors are to blame. Many parents were themselves abused as children. Many of them lack good role models for parenting. And many of them don't have an extended family to rely on. Add to this the burgeoning crack epidemic, and social workers who are seriously overburdened -- and you have a prescription for a major disaster in child welfare.

We are trying here in Congress to deal with these issues. They are all very difficult. But there is another key factor I would like to focus on in this hearing today.

I am convinced that some of the tragedies in the child welfare system are the unintended consequence of a small part of a law passed by the U.S. Congress.

In 1980, Congress passed the Adoption Assistance and Child Welfare Act. The Child Welfare Act has done a great deal of good. It increased the resources available to struggling families. It increased the supervision of children in the foster care system. And it gave financial support to people to encourage them to adopt children with special needs.

The authors of the Act deserve a great deal of credit for how they dealt with the problems they faced. Their legislation has done a lot to improve the lives of America's children. But while the law has done a great deal of good, I have come to believe that the law is being frequently misinterpreted, with some truly unintended and undesirable consequences.

Under the Act, for a state to be eligible for federal matching funds for foster care expenditures, the state must have a plan for the provision of child welfare services approved by the Secretary of HHS. The State plan must provide:

"that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home" (emphasis added).

In other words, no matter what the particular circumstances of a household may be -- the state must make reasonable efforts to keep it together, and to put it back together if it falls apart.

There is strong evidence to suggest that in practice, reasonable efforts have become extraordinary efforts. Efforts to keep families together at all costs.

There are hundreds of examples I could give you. Over the last several months, I

have talked to people all over Ohio who deal with this problem every day. I have asked them the following hypothetical question: "Let's say there's a cocaine-addicted mother who has seven children. The father is an alcoholic. The seven children have been taken away -- permanently -- by the county.

"The mother gives birth to an eighth child. The child tests positive for cocaine. The father is still an alcoholic. What would you do?"

Some said they would apply for emergency temporary custody of the child -- but they would still have to work to put that family back together. Others said a court wouldn't grant them even temporary custody of the child. One county told me it would be two years before the child would be available for adoption. Another county said it would be five years.

Now, the answers I got were different from county to county. But one thing is clear: It is the 1980 law, and how it is being interpreted by social workers and judges, that leads to these different results.

In my view, this is certainly not what was intended by the authors of the law.

Much of the national attention on the case of Elisa Izquierdo in New York has focused on the many ways the social welfare agencies dropped the ball. It has been said that there were numerous points in the story when some agency could have and should have intervened to remove Elisa and her siblings from her mother's custody before Elisa was killed.

I am not going to revisit that ground. Rather, my point is a broader one: Should our Federal law really push the envelope, so that extraordinary efforts are made to keep that family together -- efforts that are clearly unreasonable?

I believe we need to re-emphasize what all of us agree on -- the fact that the child ought to come first. We have to make the best interests of the child our top national priority.

What I would like to explore today is the question of how to do this. I have already proposed legislation that I think would accomplish this goal. It would add to the relevant law the following simple, straightforward provision:

"In determining reasonable efforts, the best interests of the child, including the child's health and safety, shall be of primary concern."

Here in the Labor and Human Resources Committee, we have a great deal of experience in dealing with children's issues. Our purpose here today is to explore whether this is a good solution. Now, the specific law that would have to be amended with this language is the Social Security Act, which comes under the jurisdiction of the Senate Finance Committee -- and we look forward to working with the Finance Committee on this bill.

WITNESS LIST
U.S. SENATE LABOR AND HUMAN RESOURCES HEARING
“Improving the Well-being of Abused and Neglected Children”
U.S. Senator Mike DeWine, Chair
Wednesday, November 20, 1996

PANEL I

Olivia Golden
Acting Assistant Secretary for Children and Families
Administration for Children and Families
U.S. Department of Health and Human Services
Washington, DC

PANEL II

Richard J. Gelles
Director, Family Violence Research Program
University of Rhode Island
Kingston, Rhode Island

PANEL III

Sharon Aulton
Annapolis, Maryland

Peter Digre
Director, Department of Children and Family Services
Los Angeles County
Los Angeles, California

Helen Jones
Executive Director
Montgomery County Children Services Board
Dayton, Ohio

TESTIMONY OF

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before the
United States Senate Labor and Human Resources Committee
Hearing on
"Improving the Well-Being of Abused and Neglected Children"
Wednesday, November 20, 1996

Senator DeWine and Members of the Committee:

I am honored by the opportunity to appear before you today as you consider how the Federal Government can act to improve the well-being of abused and neglected children.

The writer Norman McLean said that "It may not be a fixed rule, but it is certainly a convention of public tragedy that it must repeat itself if it is to make a cry loud enough for something good to come of it."

With regard to the problem of child maltreatment in the United States, there are regular and repeated public tragedies and loud cries.

Unfortunately, with only a few exceptions, little good has come from these terrible public tragedies.

I think it fair to say that most people who know about the child welfare and child protective system in this country know that this system is in crisis. The crisis is more than simply a failure of one part of the system. As the U.S. Advisory Board on Child Abuse and Neglect said six years ago, this is not a failure of a single element of the system, but a chronic and critical multiple organ failure.

The failure is not the result of an enormous increase in the number of reported cases of child maltreatment, as reported by the Secretary of the Department of Health and Human Services in September (an increase that many researchers do not see as a reflection of a real increase in child abuse and neglect). This is not a crisis caused solely by too few child protective workers responding to an increased number of reports. This is not a failure caused solely by having too few resources available to public and private child welfare agencies.

The crisis is a failure of inappropriate goals as well as a well-intended, but improperly implemented Federal law, the Adoption Assistance and Child Welfare Act of 1980 (PL 96-272).

The current crisis of the child welfare and child protective system and our inability to help get vulnerable children out of harm's way, is the result of:

(1) The overselling of "intensive family preservation services" as a cost-effective and safe means of protecting children. I have served for the past two years on the National Research Council's Panel on Assessing Family Violence Interventions. We have carefully examined the entire literature that evaluates the effectiveness of intensive family preservation services. We have carefully examined the results of studies that meet the normal standards of scientific evidence in this field. Although there were a number of people on the panel who believed that intensive family preservation services could preserve families and protect children, we have yet to find scientific research that could support such a claim. While intensive family preservation services might be effective for some families under certain conditions, the case can not be made for its overall effectiveness.

Our inability to find evidence for the effectiveness of intensive family preservation services would not be so problematic if foundations, agency directors, child advocacy groups, and even administrators in the Department of Health and Human Services were not effusively touting the successes of intensive family preservation services.

(2) The Adoption Assistance and Child Welfare Act of 1980 that mandates states to make "reasonable efforts" to keep children with their biological parents. This law and this phrase were well-intended and designed to solve the problem of children inappropriately languishing in foster care. The law, however, never clearly defined the terms "reasonable" or "efforts."

We have 16 years experience with this law and it is quite clear that child protective workers often misunderstand and misapply the law. I have heard caseworkers, lawyers, and judges state very clearly that their mandate is to make every possible effort to keep children with their biological caretakers.

(3) The belief that children always do best when raised by their biological caregivers. Just last week I read a quote from an administrator from the Missouri Department of Social Services who cited research that said that children do best when left with their biological caretakers. Indeed, this is true so long as their caretakers do not abuse and maltreat them. But children who are abused and neglected do not do best when they are left with or are reunited with the caretakers who maltreated them. In fact, compared to children left with caretakers who maltreat them, children placed into foster care, children who are adopted, and even children raised in orphanages generally do better.

(4) The belief in the fiction that one can actually balance family preservation and child safety. Such a balancing act almost inevitably ends up tilting in favor of parents and places many children at risk. There are more than 1,200 children killed by their parents or caretakers each year in the United States, and nearly half of these children are killed after they or their parents have come to the attention of child welfare agencies. Tens of thousands, if not hundreds of thousands of children are re-abused each year after they or their parents have been identified by child welfare agencies.

(5) The belief that it is easy to change parents who maltreat their children. Child protective agencies often confuse compliance with change and fail to recognize the process by which people change. Just because someone is reported for abuse and is threatened with the loss of their children, does not mean they will change their behavior. Just because someone is provided with state-of-the-art interventions and services does not mean they will change their behavior.

Congress has the means and the opportunity to make some good come from the public tragedies of Elisa Izquiedo in New York City, Baby Emily in Connecticut, Joseph Wallace in Chicago, Christine Lambert and Natalie Aulton in Baltimore, a 15 month old boy I called David Edwards in my book, THE BOOK OF DAVID, and hundreds more children each year.

The time has come to revisit The Adoption Assistance and Child Welfare Act of 1980 and to spell out what is "reasonable" and what are "efforts." The time has come to legislate time limits for reunification efforts and to recognize that some individuals are so dangerous that they should not be given a second chance to harm their children. The two words, "reasonable efforts" must be defined or changed so that children, their welfare and development come first.

Congress can also work with the administration to develop a program of research and demonstration that examines what interventions work for which families under what conditions. If any good is to come from public tragedies, it can not come if we

guide our social policy and our child welfare system with homilies, canards, and overmarketed "one size fits all" solutions.

I have also provided committee staff with a longer more complete analysis of child protection social policy.

Thank you for the opportunity to appear before you.

BIOGRAPHICAL STATEMENT

RICHARD J. GELLES is Professor of Sociology and Psychology and the Director of the Family Violence Research Program at the University of Rhode Island.

His book, The Violent Home was the first systematic empirical investigation of family violence and continues to be highly influential. He is the author or coauthor of 19 books and more than 100 articles and chapters on family violence. His latest book is, The Book of David: How Preserving Families Can Cost Children's Lives (Basic Books, 1996).

Gelles received his A.B. degree from Bates College (1968), an M.A. in Sociology from the University of Rochester (1971), and a Ph.D. in Sociology at the University of New Hampshire (1973). He edited the journal, TEACHING SOCIOLOGY from 1973 to 1981 and received the American Sociological Association, Section on Undergraduate Education, "Outstanding Contributions to Teaching Award" in 1979. Gelles has presented innumerable lectures to policy-making groups and media groups, including THE TODAY SHOW, CBS MORNING NEWS, GOOD MORNING AMERICA, THE OPRAH WINFREY SHOW, DATELINE, and ALL THINGS CONSIDERED. In 1984 ESQUIRE named him to one of the men and women who are "changing America."

Presently, Gelles lives in Kinsgton, RI with his wife Judy, a photographer. His son Jason graduated Harvard University in 1996 and his son David is sophomore at Tufts University.

Testimony of Sharon Aulton, Annapolis, Maryland
November 20, 1996
before the Senate Labor and Human Resources Committee

Hearing on Improving the Well-being of Abused and Neglected Children

Senator DeWine and other distinguished members of the Labor and Human Resources Committee -- my name is Sharon Aulton, and I would like to thank you for inviting me to testify before the Committee to share the tragedy of my granddaughters -- Christina Lambert and Natalie Aulton.

My story begins with my daughter, Rene Aulton. Rene has a low IQ and is emotionally unstable. This condition resulted in her receiving special education services as a student all of her life. She has never been able to keep a job. She is an extremely needy person and gravitated towards boys and men who were just as dysfunctional as she.

She subsequently became pregnant and gave birth twelve weeks prematurely to my grandson, Mark. The baby was in a Neonatal Intensive Care Unit for two months and during that time she visited him three or four times. I visited him three or four times a week plus called everyday to inquire as to how he was doing. On the day of discharge from the hospital the doctors found a bilateral hernia and I had to take him to Johns Hopkins for an emergency operation. I spent the night with him at the hospital while his mother was at home, waiting for the baby's father to call. Right from the beginning I had to become this child's primary caretaker.

I took Rene and the baby into my home with certain ground rules. Rene found those rules too restrictive and she did not like being told what to do. Social Services at the hospital sent a visiting nurse to the house a couple of times a week to check on Rene and the baby. I would also come home at lunch every day to check on the baby. One afternoon I came home to find Rene and Joe (the baby's father) packing up the baby's things and preparing to run off with him. This was a baby who has hooked up to an apnea monitor because of respiratory problems and was still considered a medical risk because of complications of prematurity. Neither parent had a job, a place to live, a job or resources to take care of this ill baby. When I attempted to stop them, I was assaulted by Joe.

Until the deaths of Christina and Natalie, the hardest day that I ever had to face was deciding to press charges and have my daughter arrested and having to give my grandson to the Department of Social Services. My heart was broken and I was grief stricken because I had to give up a baby that I had bonded with and considered my son. Mark was placed in a foster home until I could find day care. He was in foster care for nine months because no day care facility would care for him while he was still hooked up to an apnea monitor. I did get him on weekends and I became his foster mother when he was a year old. After many hearings and attempts by the court to reunify the child with his parents, with no success, I received custody and have been raising my grandson. He will be nine years old in January.

After the custody of the baby was transferred to me, my relationship with his parents was strained and sporadic. The father received a sentence of a year, all suspended except one month for the assault on me. The parents moved from Anne Arundel County to Talbot County where Rene became pregnant with Christina. It was only after Christina was born that I resumed a relationship with them. I adored Christina the minute I laid eyes on her. Rene and Joe were so dysfunctional that they could not parent properly. I tried to visit when I could, but our relationship never got any better. If anything, it got worse because I would tell them what they should do in order to take care of themselves and the baby. They did not want to hear it and they hated me for "taking" their son. I tried to explain that I did not take their son, but that the court gave him to me because they did not meet any of the conditions of the plans to reunify the family. They never took responsibility for their actions.

Talbot County social services became involved when they became homeless and called me and asked me to take them all in. I said I would take Christina but would not take Rene and Joe. They refused and said they would not split up the family and put them up in a motel until they could find housing for them. Joe was subsequently arrested for molesting three young girls and sentenced to prison for ten years. Since Rene could not or would not take care of herself she moved to Baltimore County with a man old enough to be her father. I did not know her whereabouts for nine months. I was frantic with worry about Christina.

One day out of the blue I got a phone call from Rene. Guess what Mom? I had another baby and her name is Natalie. Would you like to see your new granddaughter? No mention of the fact that I had not seen or heard from her for nine months. She acted as if we were having a conversation about the weather. Natalie was already a month old. I was overjoyed at seeing Christina again, but shocked to see the conditions they were living in. She was in a filthy slum and slept on mattresses on the floor. They also ate their meals sitting on the mattresses. Natalie was also a bi-racial child and not the child of the man Rene was living with.

Since I had not seen Christina for almost a year, I asked to take her home with me for the weekend. I then began a pattern where I would visit and play with Natalie and take Christina on weekends and vacations. Christina became very close to her brother and me. Her personality would drastically change from a sad, worried little girl to one who would smile, laugh and play.

I called Baltimore County protective services and told them the children were being neglected and related the parents history to them. The girls were living in horrible conditions. When they investigated they found the apartment filthy, but that the children were well-nourished and appropriately clothed. The department was unable to substantiate any neglect in the case, and I was told that I was partly to

blame. The social worker said that as long as I was rescuing and buying clothes and food for the children, they weren't being neglected.

The man that she was living with kicked her and the children out and she wound up in Baltimore City. She lived with a woman who had two children. Social services removed those two children from the home. I assumed that they were also looking at Rene and the children. But much to my surprise, they were not. How can they remove one set of children and not the other? When I inquired I was told that no one had filed a formal complaint. I told them that there were complaints on file from Baltimore County. I was told that Baltimore County was a different jurisdiction from Baltimore City. Did they follow up based on my conversation with them? No. I later found out because I had not filed a formal complaint with the Protective Services people, they did not investigate further.

Rene was eventually evicted from that house and became homeless again. She was on the street with the children and stayed wherever someone would take her in. I called child protective services and begged them to take the children. By this time, she was in a homeless shelter. Only one month before their death, Baltimore City social workers told me there was not enough proof of neglect to take the children from their mother. When I argued that they were living in a homeless shelter and that Christina had been ill for some time, social workers told me that being homeless was not a reason to take the children and that their mother was "trying" and loved her children. I never doubted that she loved her children. She could not take care of herself. How did they expect her to know how to take care of two little girls?

Another resident of the homeless shelter filed a complaint with protective services, as did the day care center where the children went during the day. Rene then received a subsidy from some agency and moved into an unsafe building.

On November 15, 1994, the case worker assigned to investigate the case arrived at the new address to find fire engines at the house and received the news that the children had died in the fire. This was a week after the complaints were filed.

My granddaughters are dead because of a law that says that children should be reunified with their parents. The parents have all the rights and the children none. My granddaughters are dead because of the many layers of bureaucratic bungling by the department of social services. My granddaughters are dead because of the inefficiency of an agency who employs unskilled and untrained social workers who didn't seem to be able to make appropriate decisions but kept quoting me the law.

My granddaughters died two years ago because the system failed to heed the warnings of responsible people who were trying to protect them. My daughter was

convicted of two counts of first degree murder and is now serving two life sentences without the possibility of parole.

It has been an agonizing two years for me when I know it shouldn't have ended this way. I have buried two children, seen my daughter put in prison and my grandson, who is multi-handicapped, put in a residential school for disabled children. My losses are many and my grief overwhelming.

This Committee has the ability to change the system and make the best interests of the children its primary focus.

REASONABLE EFFORTS: CHILD ABUSE, ADOPTION AND CHILD
WELFARE POLICY

TESTIMONY OF
PETER DIGRE, DIRECTOR

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBMITTED TO
UNITED STATES SENATE
COMMITTEE ON LABOR AND HUMAN RESOURCES

NOVEMBER 20, 1996

**REASONABLE EFFORTS:
CHILD ABUSE, ADOPTION AND CHILD WELFARE POLICY**

I. INTRODUCTION

Senator DeWine and members of the Committee, thank you for the opportunity to testify today on the subject of federal child abuse, adoptions and child welfare policy. My name is Peter Digre and I am the Director of the Los Angeles County Department of Children and Family Services, a public child protection agency which, during 1995, responded to more than 170,000 reports of child abuse and neglect. My Department is the largest child protection agency in the country. Today and every day, I am personally responsible for the protection and care of more than 73,000 children. In addition to providing child protection services, my Department also is a full-service adoption agency. Each year, we are involved in the adoption of approximately 2,100 children.

I have 31 years of experience in administering state and local child protection programs in several of the most populous jurisdictions in the country.

In recognition of the importance of preserving families and in responding to the problem of numerous children remaining in the foster care system and growing up without legally permanent families, the Adoption Assistance and Child Welfare Act of 1980 (PL 96-272) required child protection agencies to engage in "reasonable efforts" to prevent a child's removal from home after they were abused or neglected, and to enable the reunification of families once children had been removed. The momentum to provide "reasonable efforts" was greatly enhanced when OBRA 93 created a block grant of funds for "family preservation and support" under Title IV-B of the Social Security Act.

No one can fault the legitimacy or worthiness of the goal of preserving and reunifying families. Indeed, in California family reunification is successful approximately 78% of the time for infants or 84% of the time overall. However, we cannot ignore the fact that at least 22% of the time infants who are reunified with their families are subjected to new episodes of abuse, neglect or endangerment (see Attachment I, Chart). Further, our Department of Children and Family Services' studies indicate that the likelihood of a child returning home declines precipitously the longer a child stays in foster care. For example, in 1995 only 5% of the children in foster care longer than 24 months were reunified.

In addition, the original problem of numerous children growing up without legally permanent families continues to grow unabated. Long-term foster care without adoption is not stable and not permanent. The Child Welfare Research Center at the University of California found that 83% of toddlers (ages 1-2 years) entering non-relative foster care had a change in foster parents within six years, and 62% had three or more foster homes (see Attachment II, Chart). Almost one out of three had five or more foster homes. Again, long-term foster care is, tragically, neither stable nor permanent, and the numbers grow every day as the University of California found that in California, fully 30% of infants entering foster care were in long-term foster care (neither adopted nor reunified) after four years (see Attachment III, Chart).

Adoption, on the other hand, creates lifetime parents. It is commonly not understood how remarkable stable adoption is. In California, only an average of 14 finalized adoptions are set aside annually out of a potential pool of 15,000, a rate of less than .1% or one out of 1,000.

The final tragedy of children growing up without lifetime parents occurs when they grow up and leave foster care, in most states at age 18, and become fully independent without a family to rely on. This is nearly an impossible task, one that my 18 year-old daughter could not have achieved and one that I do not believe I could have achieved. Indeed, I am 52 years old and my mother still keeps a bedroom in her house for me. I will, therefore, never become homeless, but some studies indicate that as many as 45% of 18-year-olds who leave the foster care system do become homeless at some point.

Based on the above, I am not ready to abandon "reasonable efforts" or "family preservation", however, the law must be vastly strengthened to:

- emphasize that child safety is the first priority;
- emphasize legal permanency and concomitantly decrease the numbers of children growing up in long-term foster care;
- improve the life opportunities of those children who do grow up in foster care.
- correct problems created by PL 104-193

II. EMPHASIZE THAT CHILD SAFETY IS THE FIRST PRIORITY

The word "reasonable" is often read out of "reasonable efforts" creating a situation in which children are placed in danger and re-abused in the name of family preservation and reunification. In short, we too often engage in "futile efforts" which are inherently unreasonable and small children pay the price.

This can be corrected with a simple statement of legislative intent indicating that in all child welfare decision-making, our first priority is child safety. This should be reinforced in three specific ways:

1. Specifically state in the statute that "reasonable efforts" do not include efforts that place a child in danger;
2. Judges, hearing officers and child abuse workers must make specific statements of facts which indicate why they conclude that children will be safe in family preservation or reunification decision-making;
3. Lawyers and guardians ad litem who represent children must advocate only for decisions which are consistent with child safety. This clarifies a significant legal ambiguity since some lawyers assume that they must represent the wishes of the child client even if the child's wishes were incompatible with safety.

The OBRA 93 family preservation and support efforts deserve special attention. In Los Angeles and throughout California and the United States, they have unleashed commendable creativity in the development of networks to preserve and strengthen families. At the same time, too little attention has been paid to well-known and basic standards that would vastly improve child safety. We are left with a thousand pilot projects without a core program, making any definition of family preservation impossible.

The legislated state family preservation and support plan requirements should include specific standards, including 1) clarification that the first priority is always child safety, 2) careful risk assessment to exclude dangerous families, 3) a high level of in-home visitation to supervise children's safety, 4) a comprehensive range of services to increase families' capacities to protect their own children, and 5) partnerships with the community.

For example, in Los Angeles we have developed 28 Community Family Preservation Networks (CFPNs). Families with serious histories of violence or sexual assault are excluded unless the perpetrator can be removed. Community-based networks must visit each child in their home either four, eight or sixteen times a month depending on the intensity needed. Each CFPN must organize 23 key family supports, including drug treatment, housing, day care, transportation and jobs and other income supports, as well as the in-home visitation.

Our emphasis on community partnership both leverages existing resources on behalf of these families and builds a continuing community of support around them.

We have found that these high standards create the best possible outcomes:

- 85% of the time we are able to successfully preserve families in this program.
- During the first three years of our original twelve programs, 30% fewer children went into foster care in the communities they covered. The growth of African-American children in foster care was stopped dead, even as other groups showed rapid growth.
- Despite the implementation of the family preservation programs, child deaths declined in Los Angeles County for four consecutive years, from 61 in 1991 to 39 in 1994.

Finally, the need for good standards for child safety applies to the whole child protection program and not only to family preservation and support. Consequently, enhanced Title IV-E state plan requirements should include:

- minimal standards for in-home visitation;
- forensic pediatric examination for physically and sexually abused children;
- regular pediatric care for foster children;
- a timely response and resolution for each allegation of abuse and neglect;
- background screening of alleged abusers and foster and relative caretakers, including criminal and abuse screening;
- risk assessment;
- training for foster parents, including relative caretakers and child abuse workers.

Our concerns in Los Angeles County about the need to emphasize child safety led us this past year to sponsoring a bill, authored by State Senator Hilda Solis, to amend California law to specifically entitle every child to be safe and protected from abuse and neglect, and to require that all parties in Juvenile Court proceedings be responsible for child safety. As simple as our proposal sounded, we struggled mightily to assure its passage. Our

opposition came from attorneys who unfortunately believed that their primary and only responsibility is to represent the child's wishes, even when those wishes place the child at risk of further harm (see Attachment IV, SB 1516).

Support for this measure came from a wide array of child advocates, child protection agencies and community groups. It was a bi-partisan bill, authored by a Democrat and co-authored by a Republican. Our State's Attorney General and our County's Sheriff gave the bill their unconditional support.

I believe that what our experience with this proposal revealed is that not everyone who has a role in child protection accepts that child safety is their responsibility. As long as that is the case, children will be at risk. We must retain the positive gains we have seen thus far with reasonable efforts and family preservation, but we must strengthen the law to emphasize that child safety is our first priority.

III. EMPHASIZE LEGAL PERMANENCY

As indicated clearly above, foster care is tragically unstable while finalized adoptions are nearly completely stable. A child who is adopted has parents for his/her life. A child who grows up in foster care will probably have many caretakers and will not have any assurance of a family and home after he/she turns 18. Adoption must be vastly preferred to long-term foster care.

Congress can do the following to ensure that more children achieve legal permanency and that fewer enter long-term foster care.

1. Reject unreasonable efforts. Recognize in the statute that there are classes of parents for whom "reasonable efforts" and family preservation and reunification are or may be inherently unreasonable. These include:

- parents who kill or maim children;
- parents who aggressively sexually assault children;
- parents with histories of violent criminal behavior;
- parents who abandon children in life-threatening circumstances;
- parents with long-term and chronic addictions.

In such situations, it is usually futile and unreasonable to endanger children by making efforts to preserve or reunify their families. Children in these circumstances should have the right to a safe family for life by being adopted while they are still young.

2. Require reasonable efforts for legal permanency. Strangely, the concept of "reasonable efforts" applies only to preserving and reunifying families and does not address the compelling need of children to have permanent parents for life. It is imperative, and rather simple, to require states to make reasonable efforts to find adoptive homes for children without safe families.

Our second effort in our State Capitol this year was a measure that made sweeping advances in facilitating adoption, emphasized legal permanency and will decrease the numbers of children growing up in foster care. Largely written by the Youth Law Center of San Francisco and authored by Assembly Member Louis Caldera, this measure added to the situations in existing law where the juvenile court is not required to order that we provide services to reunify seriously damaged families. Specifically, the new situations include those where children have been willfully subjected to life-threatening abandonment; children whose siblings or half-siblings could not be successfully reunited with parents; children whose parents have been convicted of violent felonies; and children whose parents have extensive, abusive and chronic histories of drug and alcohol abuse and have failed or refused treatment. The measure also holds that placement of children in a preadoptive home, in and of itself, shall not be deemed a failure to provide or offer reasonable services to reunify. Finally, the bill does not permit children under the age of six years to remain in long-term care with foster parents unable or unwilling to adopt. This measure moved through both houses of our State Legislature with no opposition, testimony to the fact that the public and our Legislature are no longer willing to allow all reasonable efforts to be extended to parents at great cost to children's futures and lives. (See Attachment V, AB 2679)

IV. IMPROVE THE LIFE CHANCES OF CHILDREN WHO GROW UP WITHOUT PERMANENT HOMES

Each year, thousands of youth who have grown up in foster care emancipate to independence without reliable and legally permanent families.

Many of these children face homelessness, many have highly incomplete educations and many will become involved in crime to support themselves. Since we did not provide permanent

families for these children, we owe them the basic opportunity to succeed as adults. Congress should:

1. Declare national goals for children who must become independent after aging out of foster care.

These goals should include:

- a place to live;
- opportunity to continue education;
- life skills training;
- employment or income;
- access to health care;
- adequate clothing;
- availability of records, including educational history, driver's license, citizenship status, foster care history, health history;
- ties to community mentors.

The states' plans to achieve these goals should be incorporated in their Title IV-E plans.

2. Encourage states to develop employment, housing and scholarship opportunities for emancipating foster youth.

States should be required in their IV-E plans to specify how they will target local, state, federal and private sector employment, housing and scholarships for higher education opportunities for the special population of emancipating foster youth.

Some of the initiatives we are developing in Los Angeles include:

- blending public and private housing programs and foundation resources to create 400 apartment beds for emancipated youth, spearheaded by a very substantial grant from the Weingart Foundation;
- using the Job Training Partnership Act (JTPA) and the private sector to create jobs for all older foster youth. Targeted employment efforts should generate 2,000 jobs this year for older Department of Children and Family Services foster youth;
- encouraging local government and contractors to hire emancipating foster youth. My department has hired over 70 such youth with excellent results, including the use of 30 of them to be Emancipation Assistants to help younger children prepare for independence;
- encouraging blending private contributions with college, state and federal scholarships to enable

emancipating foster youth to go to college. This year my department has requests from 500 of our 800 emancipating youth for college scholarship assistance, and we will be able to honor all of them, thanks to the generosity of our community.

These and other efforts would be enhanced if Congress would lower the age for participation in the Independent Living Program from 16 to 14 to allow us to engage youth earlier in preparation for this most difficult transition.

Our third State legislative effort involved a bill, also authored by Assembly Member Louis Caldera, which required our colleges and universities to evaluate their outreach to and retention of former foster youth, and to assure that these youth are identified and informed of existing Extended Opportunity Programs and Services. It authorized targeted outreach to foster youth in conjunction with public child welfare agencies and required the inclusion of at least one former foster youth on college advisory councils.

Although this bill did experience some opposition, a number of the Members of the Legislature realized that all of us are responsible for foster youth and the State owes these youth what most parents would want for their own children. The universities and community colleges were partners in this effort and were eager to have the opportunities to make greater gains with this group of young adults (see Attachment VI, AB 2463).

Finally, our fourth effort was a bill sponsored by the California Youth Connection, an organization of and for current and former foster youth, and was authored by State Senator Diane Watson. This bill, as introduced, would have created programs to empower foster youth, specify legislative intent that youth leaving foster care have specific minimal daily living needs met, enact a foster youth bill of rights and responsibilities and encourage state and local governments to recruit and hire current and former foster youth.

Ultimately, this measure was vetoed by the Governor because he felt it duplicated existing regulatory requirements. Each of the other bills was signed into law by Governor Pete Wilson and will take effect on January 1, 1997.

We succeeded this year in strengthening California law to emphasize child safety, emphasize legal permanency and improve life opportunities for those children who do grow up in foster care. These measures are models of sound child safety public policy.

V. IMPACT OF PUBLIC LAW 104-193

On many occasions during the past year, I have expressed my concerns about the impact of the sweeping changes the newly enacted welfare reform legislation will have on our child protection programs. I have two items that I believe could be easily remedied as Congress reconvenes for its new session in 1997.

First, PL 104-193, the Personal Responsibility and Work Reconciliation Act of 1996, prohibits those convicted of felony drug-related offenses from receiving Temporary Assistance for Needy Families. I would submit to you that we do have a proportion of parents who may fall into this category, but who have paid their price to society and who have successfully rehabilitated themselves through participation in drug treatment and have become totally drug free. These parents should have a chance to redeem their lives. They should be exempted from this federal prohibition, which can only serve to raise the odds against them and place their children at greater risk of growing up in the child protection system.

Second, in Los Angeles County, slightly more than half of the children in our foster care caseload are placed with relatives, while statewide slightly less than half are placed with relatives. In California and Los Angeles County, we are well-positioned to implement the new federal requirement contained in PL 104-193 which specifies that homes of relatives must be the first child placement consideration when safe. Our reality, however, is that not all the relatives with whom children might be placed are people of great means. Many of these relatives, considering that care of abused and neglected children also means costly child care and remedial medical and psychological care, find themselves in need of financial assistance. These relatives should not be subject to the work requirements and time-limit provisions of the new welfare reform program if we ask them to become caregivers for their grandchildren and nieces and nephews, and if Congress expects states to meet this requirement. Congress must reconsider these requirements and search for a better reconciliation of these provisions.

VI. OUR CONTEXT: CHILD ABUSE AND NEGLECT CONTINUES TO INCREASE DRASTICALLY

The United States Department of Health and Human Services recently released the *Third National Incidence Study of Child Abuse and Neglect*, the single most comprehensive source of information about the current incidence of child abuse and neglect in the United States. While I will not review for you the entire study and its findings, I want to share with you the most critical points that I believe underscore the need for decisive action by Congress to make

child safety our nation's highest priority, data which is not totally dissimilar from that I have tracked in my own County.

Using data that includes both first-time as well as subsequent incidents of abuse and neglect, the Study's findings are alarming:

- Based on 1993 data, the Study reflects a dramatic 149 percent increase since the 1980 Study in children suffering from subsequent incidents of abuse or neglect.
- Between 1986 and 1993, there was a 98 percent increase in the total estimated number of abused and neglected children.
 - Abuse and neglect increased across all categories, including physical, sexual and emotional abuse, as well as physical and emotional neglect;
 - The number of children seriously injured by abuse or neglect increased by 298 percent.

The Study found that family income was significantly related to the rates of incidence in nearly every category of maltreatment, a finding that was consistent with the findings in the 1986 Study. Children in families with annual incomes below \$15,000 per year were found to be more than 22 times and 25 times more likely to experience some form of maltreatment under the two study standards than children in families with annual incomes of \$30,000 per year or more. *Child neglect* means lack of the necessities of life, including food, clothing and shelter; while *child abuse* is often a reaction to frustration and stress.

And finally, the Study shows that our child protection systems appear to have reached their maximum capacity to respond to these maltreated children. Despite the rising numbers of children found to be abused or neglected, the actual numbers of children whose abuse and neglect was investigated by Child Protective Services (CPS) remained stable, meaning that a larger percentage of children has not had access to CPS. (See Attachment VII, *Child Abuse and Neglect National Incidence Study*.)

VII. CONCLUSION

The Adoption Assistance and Child Welfare Act of 1980, supplemented by OBRA 93, laid a substantial foundation for child protection. However, the experience of the past sixteen years has shown numerous ways in which the law must be improved in order to increase child safety, emphasize legal permanency through adoption and create basic opportunities for foster youth who emancipate without legally permanent families.

TESTIMONY OF
HELEN LEONHART-JONES, EXECUTIVE DIRECTOR
MONTGOMERY COUNTY, OHIO CHILDREN SERVICES

FOR THE HEARING ON
IMPROVING THE WELL-BEING OF ABUSED AND NEGLECTED
CHILDREN

PRESENTED TO
UNITED STATES SENATE
COMMITTEE ON LABOR AND HUMAN RESOURCES

NOVEMBER 20, 1996

Senator DeWine and members of the Committee, thank you for the opportunity to address you today on the issue of improving the well-being of abused and neglected children. I am Helen Jones, and I am the Executive Director of Montgomery County Children Services, the public child protection agency in the Dayton, Ohio area.

There are 142,000 children in my county. Last year, my agency received more than 28,000 referrals of abuse, neglect and dependency. We assisted 7,286 families and 17,664 children in crisis. More than 1000 children in the protective custody of Montgomery County Children Services were in foster care in 1995. As I sit here with you today, I am personally responsible for 1051 children in substitute care, 62 of whom are waiting for adoptive families.

I would ask you to take just a moment to imagine what it must feel like to be escorted from the only home you know, clutching a green garbage bag which contains the only meager belongings you had time to collect before being ushered into a waiting car and driven to a stranger's home. And imagine still, how even more devastating that must be for the youngster who finds himself or herself repeating that scene several times over in the course of a child's short lifetime.

I ask you to visualize this, because this scenario is reality for hundreds of thousands of American children on any given day.

Certainly, I do not want to suggest that children should remain in homes where they cannot depend upon their parent or caregiver to protect them. But we must recognize that the decision to remove a child from his or her home of origin is a decision to further "damage" that child in some way. Consequently, it must be done planfully and sensitively with the utmost concern for the child's sense of time, urgency and need.

I should also mention that I am the President of the Board of the National Court Appointed Special Advocate Association (NCASAA). We train community volunteers to serve as guardians ad litem for abused and neglected children in court. Our advocacy is focused on "the best interests of the child", separate and apart from the other parties to the case. Indeed, we sometimes find ourselves at odds with the other parties, but our emphasis never deters from an utmost concern for the child, and as I noted above, his or her sense of urgency.

I found some recent statistics to be of interest. In its September 30, 1996 issue, U.S. News and World Report shared some statistics based upon data from HHS that talked about the numbers of children who are "suffering amid the breakdown of families and the abuse of drugs and alcohol". They showed that children of single families have a 77% greater risk of being harmed by physical abuse and an 80% greater risk of suffering serious injuries than kids living with two parents. It

went on to say that birth parents account for 72% of the physical abuse and 81% of emotional abuse. Ladies and gentlemen, we live in a country where more than three million children a year are being abused and neglected by the people who should be ensuring their safety!

These children are then being subjected to a lifetime of misery as a result of this maltreatment.

In 1987, I left the private sector to go to work for Montgomery County Juvenile Court to implement its CASA Program. One of the first cases in which I became involved was the case of three little boys who were temporarily removed from the custody of their substance abusing mother. They were placed in two different foster homes (the two younger boys were together in one foster home), and the judge granted visitation rights to their mother who showed up sporadically at best. She was able to rehabilitate just enough for the court to grant that the boys be returned to her, only to "fall off the wagon" and to lose them again six months later. This cycle was repeated continually for eight years until last December when one of my first official acts in my new appointment to the position at Children Services, was to sign the papers to agree to their adoption.

It took eight years from the start of this case to the finish! The oldest boy was five when he first came into care. He was thirteen when I signed the adoption papers. Of course, I'm keeping my fingers crossed, hoping that this adoption "takes" and doesn't end up disrupting and forcing these three boys back into the system.

The Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) requires that "reasonable efforts" be made to prevent the unnecessary removal of children from their families. If a child's safety is jeopardized, and they must be removed from their families, efforts must be made to secure permanence for the child either through reunification with their own families or by finding them another home which is safe, nurturing and permanent.

Too often, children fall victim to foster care drift while the adults who are responsible for ensuring their care vacillate between returning them to marginal homes and terminating parental rights to free them for adoption. Often, by the time they are freed for adoption, they are no longer viewed as "adoptable."

Ohio, like many other states, including Florida, Iowa and others, recently changed its legislation to make it less bureaucratic to ensure the safety of children. The overriding concern which drove the legislative changes is that *safety* is the most important consideration for children at risk of abuse and neglect.

With that in mind, Ohio has shortened the time frames in which to terminate parental rights and encourages agencies to study foster homes for the purposes of allowing them to adopt the children in their care.

This is not to suggest that Ohio's new law should become the federal standard. In fact, while many states have made changes, none has covered every aspect. However, the basic premise of ensuring the safety and stability of the child should not be lost, and the efforts to guarantee certain safeties should be replicated through out the country.

In "Backlash Against Family Preservation", Kathy Bonk notes:

"Mandatory reporting laws, particularly by schools and hospitals, have resulted in important partnerships in many states working to identify the most serious cases. If as a society, we want to help abused and neglected children, then private citizens and the public sector, not just government agencies, must be engaged to help identify and stop severe cases, but not lose children in the process. Good quality and timely investigations of abuse is the first, and maybe, most important action that a child protection agency can take to ensure that children are safe and protected while helping families. And we can all agree that more and better training is needed to better detect abuse, to keep children safe and to help stabilize families."

Clearly, to improve the overall well-being of abused and neglected children, there must be a greater emphasis on child safety. Legislative changes which emphasize resources to supervise and train staff are critical.

There will be times when it is unquestionably in the child's best interest to provide the family with the requisite skills training and support services (and that doesn't necessarily mean dollars – though sometimes it might), to keep that child in the home or to return the child after a short period of time.

Conversely, when we recognize early on that reunification is *not* an option, legislation should not bind our ability to make an early decision which is consistent with the child's sense of time.

What would be most helpful from the legislature in making efforts to protect children would be clearer direction in terms of definitions/concepts in legislation, more diversity in resources and incentives.

The bottom line is, and always should be, keeping the issue of protecting children first and foremost in our advocacy efforts and ensuring their safety at all times.

I'll close by telling you what drives me to do this work:

Six year-old Michael was the reason I made the decision to go to law school. Michael was a little boy with whom I worked in a social skills development program in Cincinnati, Ohio. He lived in the Over-the Rhine neighborhood, which at one time was one of the poorest sections of Cincinnati. Now with gentrification, it is a desired area, close to downtown.

Michael's school was one of the schools where the District used to send disinterested teachers to live out their time until retirement. Many of the children came to school hungry, unkempt and in search of any type of adult nurturing, so it was sad that they were surrounded by so many teachers who were unable to meet their needs for attention.

Michael was a very bright child, but he expressed his intelligence in inappropriate ways, which drove his teacher to distraction and constantly got him thrown out of the classroom.

Michael's mother was a prostitute. His father had been her pimp. Michael had been removed twice in his young life and returned because once again, his parents minimally complied with their case plan. I share this to give you a sense of his sad entry into life. It is matched by his sad exit.

Michael died at the age of seven following a fall from a third story window. He had been at home, unsupervised, left alone with his three year-old brother.

Michael is the reason I went to law school to learn to advocate for children like him. He is also the reason I flew here today to thank you for your interest in the children like him, who have no voice to speak up for themselves, and who have to rely upon the grownups like us to "read their cues" and to ensure that other children don't die needlessly, because there weren't enough resources or opportunities in the system for professionals to do the job of making sure these children were in safe, nurturing and permanent homes.

We need to take the tough action now to say once and for all, there *are some parents for who all our best efforts will never be enough.*

We need to have clearly identified criteria which allows the professionals to say unequivocally that :

- Parents who murder or maim children;
- Parents who aggressively assault children;
- Parents with histories of violent criminal behavior or domestic violence;
- Parents who abandon children in life-threatening situations;
- Parents with long-term and chronic addictions which place children at risk and who have rejected treatment or relapsed after treatment;

- Parents with long term and chronic conditions which place children at risk and who have refused treatment; and
 - Parents who repeatedly withhold medical treatment or food when they have the means to provide same, will automatically trigger a petition which moves to quickly sever parental ties and free these children to loved, supervised and cared for by foster and adoptive parents who are willing to take on the responsibility for their upbringing.
- Then, and only then, will I feel that my promise to Michael's memory has been fulfilled. Then, and only then, will all of us be able to go to bed at night, assured that the children of our global community have the ability to experience visions of sugar plums and not the ugly nightmares of abuse or neglect.

UNITED STATES SENATE
LABOR AND HUMAN RESOURCES COMMITTEE
HEARING ON:
"IMPROVING THE WELL-BEING OF ABUSED AND NEGLECTED CHILDREN"
WEDNESDAY, NOVEMBER 20, 1996
TESTIMONY OF:
MARCIE FULLBRIGHT

Senator DeWine, members of the Committee, I certainly appreciate the opportunity to be here today to testify on the subject of improving our work on behalf of children and on the issue of "reasonable efforts".

Over the last twenty years, social researchers have investigated the plight of our children being raised in the foster care system. In the early eighties the condition of these children incurred such attention that federal legislation was incited to end "foster care drift" and provide our children with permanence. In Ohio, state legislators responded to the needs of these children with the introduction of HB89. These laws were written with good reason, by good people with good ideas and good intentions. Unfortunately, as years have passed, the intent of these good laws has been somewhat forgotten. We have forgotten that the needs of the children, not the needs of the parents, or the needs of the agencies, or the needs of the courts, were at the heart of these laws. We have forgotten that our children need permanence and that all of our efforts need to address this need.

The very laws which intended for us not to forget, have aided in our forgetfulness. The "loose" wording of the law, and the failure to specify meaning, have left the intent of the law victim to some very "loose" interpretations of intent. One example is the issue of "reasonable efforts". With room for interpretation, reasonable efforts has become a series of petty questions: How many phone calls are enough? How long is long enough? How many chances are enough? As an example, I would like to tell you the story of a brother and sister.

In 1993 a boy, age 3 and his sister, age 2 came into the emergency care of the agency. Both children had been severely battered. The girl who had been beaten, burned, and had had her front teeth knocked out, entered foster care three days after her brother, as she needed to remain hospitalized to heal her injuries. When the children entered foster care, they could not talk. They hit and spit, and fought each other over every morsel of food and attention. They could not be placed together because of the risk to both. The initial clinical evaluations of the children described them as "animalistic".

Their mother denied battering the children or knowing who had. She stated she wanted reunification. The mother was criminally charged, something rarely done. Knowing that we had to make "reasonable efforts" to reunify the family, we developed a case plan giving her tasks that we said, if completed, could enable her to regain custody of her children. Although the mother did as her defense attorney advised, she failed to follow the agency's case plan. Even after visitation was suspended, the agency had to continue to make reasonable efforts to work with mother toward reunification. At mother's criminal trial, she calmly told of beating, burning, and torturing her children. She expressed no remorse. In 1994 she began serving a five to fifteen year sentence in prison.

When the agency finally filed for permanent custody of the children, both parents were appointed attorneys. At initial hearings, mother's attorney identified that the mother had taken parenting classes in prison and now would certainly be a better mother. In addition, the mother had been a model prisoner and would definitely be eligible for an early parole. The attorney argued that it was "reasonable" to give the mother time to get out of prison. The father's attorney assured the court that his client, who had not seen the children since they entered foster care, would be a good parent and that he definitely wanted his children. The attorney argued that it was "reasonable" to give the father more time to get to know his children and show that he could care for them.

In total, the agency went to court six times during 1995 in our efforts to obtain permanent custody of the children. Finally, on 4-16-96, the agency was awarded permanent custody of these two children, now 6 and 7.

In this case, the needs of the children were secondary to the "rights" of the parents. The mother was not available to parent, even if she had been able to parent. Yet due to the attorney's and court's interpretation of "reasonable efforts" this fact was overlooked. The father made no attempt to parent. Yet due to the attorney's and court's interpretation of "reasonable efforts" his lack of effort was overlooked.

Unfortunately, these children's' story is not uncommon. I know that each time I enter a courtroom and the request of the agency is not agreed to by another party, the likelihood is that the hearing will be continued. It will be put off to some distant date and the agency will be required to continue making "reasonable efforts" to reunify the family. I know from experience that in my county, contested trials take an enormous amount of time to get on the docket.

In one of my cases, the agency filed for permanent custody of a sibling group of six in January 1996. Our two day trial in July 1996 was continued and we will not be going to trial again until March of 1997. Yet, until that time, we are required to try and make reasonable efforts to work with the parents and extended family. The mother has significant mental health problems and will not initiate contact with us, we always have to pursue her and the father. The court thinks this expectation of the agency is "reasonable". The grandparents who want one of the children have submitted to psychological evaluations. The evaluations state that they were in such denial of their abuse of the children that the testing was invalid. The psychologist states that the grandparents need another evaluation, conducted by another party. The court will find this "reasonable" and will insist that the agency schedule and pay for additional evaluations of the grandparents.

In this case, many efforts have been made, and no additional efforts are reasonable. The parents, even with intensive in-home services could not care for the children. They could not, on their own meet even the most basic of needs. Mother's mental health problems, domestic violence, and an overall inability on the part of the parents to control the children's' behavior without resorting to physical abuse

precipitated the children's entry into foster care. Likewise, any additional efforts to work with the grandparents are also unreasonable. The girls have all reported being sexually abused by the grandfather over an extended period of time. Even so, the agency will continue to make "reasonable efforts" to work with the parents and grandparents, trying to make them comply with a case plan they do not agree with, and identifying reunification as the goal for the children. These efforts will continue until we go to trial in March.

My job is not impossible to do, but sometimes, it is impossible to do well. The very laws which were designed to help me do my job are sometimes the biggest barriers. My job would be easier if the wording of the law reinforced the intent of the law. It would be easier if the law said... "Our children are our most valuable asset and they deserve permanence. As evidence of our belief in the value of our children, our 'reasonable efforts' to provide them with permanence shall begin the day they are identified to be at risk of being abused, neglected, or dependent, and will continue until they are insured a safe and secure childhood. That the overall well-being of our children will be placed above the rights or needs of any others".

Until we place the health and well-being of our children first, we are going to continue to forget that they need what all people need: security, consistency, a feeling of being wanted, and a place to be at home. I ask that you change the law and make "reasonable efforts" address the needs of our children.