

*Jen- advoe stuff
-MEPA lang.
-clarify e'er credit

FL Did endorse tax credit

**PHOTOCOPY
PRESERVATION**

TO: Carol Rasco
Jeremy Ben-Ami

FROM: Diana Fortuna *DF*

CC: Elizabeth Drye
Jen Klein

DATE: April 29, 1996

Bruce Reed asked me for a reaction to some ideas in a summary of Senator Coats' bill on an adoption tax credit, and I sent him the attached memo last Friday. I think he is interested in moving on something like this.



The Adoption Assistance Act

Over the past 25 years, there has been a dramatic increase in the number of children born out of wedlock, children being raised by single parents, families on welfare, and children entering the foster care system because of abuse, neglect, or abandonment. Family disintegration is widespread. Yet there also has been a sharp decrease in the number of children being adopted, with formal adoptions dropping by almost 50 percent: from 89,000 in 1970 to a fairly constant 50,000 annually throughout

the 1980s into the 1990s.

One key reason is cost. The costs of adoption are often prohibitive, especially for working class families. The average cost of an adoption is \$14,000 and it is not uncommon for this figure to reach upwards of \$25,000. Often this includes prenatal care for the birthmother and child, counseling for the adoptive family, and legal fees.

The federal government should support parents, whether they choose to have children on their own or adopt them. There is currently inequity in the tax system. While certain health care costs related to the conception, delivery and birth of a child may be deducted as medical expenses, no similar relief is available for adoptive families. In addition, in an adoption, medical expenses related to the child's birth are not covered by the (adoptive) parents' health insurance, but are paid for out-of-pocket.

Money should not be the primary criterion for selecting a family for a child. Adoption is assistance to children of parents who find themselves unable or unwilling to care for them. Every child available for adoption is a child with a special need for a loving home.

"The Adoption Assistance Act" embodies the idea that providing tax breaks for adoptions today will have the positive effect of reducing the number of children in need of foster care tomorrow.

- An estimated one to two million prospective parents are still waiting to adopt a child.
- Close to 37,000 children with special needs are legally free and waiting for adoption in the United States.
- The national out-of-wedlock birthrate may reach 40 percent by the year 2000. Yet in 1991, only 4 percent of children born out-of-wedlock were adopted. This is down from 25 percent in 1971.

"For every child who is ready for a permanent home, there are families waiting. It is time to shatter the myth that adoptive parents are interested only in 'healthy white babies.' There are waiting lists to adopt white children, black children, Hispanic children, infants and teens, children with Down's syndrome and with AIDS. Private agencies for years have found families for all types of children. The National Adoption Center maintains a computerized listing of 650 qualified families waiting to embrace disabled 'older' children. The center reports that infants, even the most severely disabled, are adopted almost immediately. Clearly, the barriers to adoption are neither the characteristics of children who wait nor the parents who want to care for them."

-- Conna Craig, Policy Review, 1995

This legislation would:

- Offer a \$5,000 refundable targeted tax credit for adoption, available in full to families earning less than \$60,000 and in part to families earning between \$60,000 and \$100,000.
- Provide up to \$2,000 in assistance for Federal employees to help with the costs directly related to adopting a child.
- Exclude employer provided adoption assistance from taxation.

"Tax fairness for adoptive families is long overdue, and Senator Coats' approach certainly meets with our approval. We are particularly pleased to see his bill combine the best of the tax credit approaches with the best of the employee benefits plans. This will empower individuals and families who want to adopt, reduce bureaucracy and encourage more employers to grant adoptive families benefits similar to those they extend to people who add children to their family through childbirth. At the same time, the tax package will help reduce the numbers of children in the foster care system. What a bargain for taxpayers!"

-- National Council for Adoption

Preexisting conditions → until finalized

Congr Coalition - RTL/mostly R's
- supposedly bipartisan

Very political
not open records
RTL

Eric Toder 622-0120
(Helen Cole) DAS
Tax Pol 12

TO: Bruce Reed

FROM: Diana Fortuna *Diana*

DATE: April 26, 1996

Here is what I've found on Senator Coats' ideas on adoption assistance.

Coats' ideas are not so much great alternatives to a tax credit as they are rationales for a tax credit. The parity issues Coats raises are more relevant to middle-class private adoptions of babies than to adoption of special needs children from public agencies. (Special needs means minority, disabled, or older children or sibling groups from the public system.) However, his proposed solution of a tax credit would benefit both private and public adoptions.

I am also attaching a Treasury memo on the adoption tax credit that was apparently written in response to the President's expression of interest in this subject during the budget negotiations last winter. This memo raises some concerns about a credit, and recommends limiting it to special needs children and public agency adoptions, or else making it smaller. But I don't think Treasury would vehemently oppose a broader credit. (You may have a better sense of this than I do.)

General Thoughts on a Tax Credit: Putting aside concerns about the budget and cluttering up the tax code, a tax credit is a fairly good idea. For private adoptions, it would address the issue of parity with the costs of having biological children. For public adoptions, it would encourage adoption of special needs children and direct assistance to the lower-income families who are most likely to adopt them.

The argument in favor of limiting a tax credit to special needs adoptions is that we don't need to encourage private adoptions (where there is a shortage of kids), and we do need to encourage special needs adoption (where there is a shortage of adoptive families). However, it is in the private adoption world where families face tremendous out-of-pocket costs for lawyers, agency fees, and medical costs for the birth and birth mother. Families adopting IV-E children get maintenance payments, Medicaid, are eligible for a special IV-E reimbursement of up to \$2,000 of non-recurring adoption expenses, probably don't have to hire a lawyer, and don't pay agency fees.

So I think there is a decent argument that it should not be limited to special needs (other than the hit on the budget).

Other issues include whether a tax credit ~~it~~ should include international adoptions (probably yes, in the interests of broad appeal); whether it should be a refundable credit, which would benefit lower-income families more (probably yes, to encourage special needs adoptions); and whether costs already reimbursed through government programs should be eligible for the credit (probably not, for fiscal integrity reasons).

As you know, the tax credit has become identified as a Republican idea. Democrats have floated bills that would allow tax-free IRA withdrawals for adoption costs or require employers to grant leave benefits to employees who adopt, but are avoiding the tax credit, even though it is the simplest and most appealing idea.

Senator Coats' Adoption Issues:

1. Coats' summary says, "While certain health care costs related to the conception, delivery, and birth of a child may be deducted as medical expenses, no similar relief is available for adoptive families."

This simply refers to the feature of U.S. tax law that allows medical costs that exceed a certain percentage of income to be deducted. Most of us don't take advantage of this because our out-of-pocket costs aren't high enough.

Presumably Coats is referring to a situation common in private adoptions of babies, where an adoptive family agrees to foot the bill for prenatal, birth, and postnatal costs. His proposed solution is a tax credit, rather than making these costs deductible. Treasury could take a look at which approach is better from a tax policy perspective.

(It is possible that Coats is referring to attorney and agency fees, saying they are analogous to birth costs. A capped tax credit would be the best option here, since you wouldn't want to encourage higher fees by making them deductible.)

2. Coats' summary says, "In addition, in an adoption, medical expenses related to the child's birth are not covered by the (adoptive) parents' health insurance, but are paid for out-of-pocket."

This is really a restatement of the previous item, pointing out that these costs are neither deductible nor covered by private health insurance. Coats' solution to this is a tax credit.

An alternative is to force private health insurance policies to cover maternity costs for adoptive families as if the adoptive mother were the birth mother. Arizona is the only state that requires this. Presumably, however, it would be easier for us to get a tax credit enacted than a new requirement on private insurance companies.

One improvement took place through a 1993 change to ERISA that requires employer-provided health plans to cover adopted children at the time the family takes responsibility for the child -- presumably right after birth in these types of cases. So families do not have to wait for the adoption to be formally complete before the child is added to their health insurance (assuming they are covered by an ERISA plan, which most people are). However, the birth and prenatal care remain uncovered.

3. Coats' summary says, "Exclude employer provided adoption assistance from taxation."

More and more companies are offering a lump sum of \$2,000 in assistance for families who adopt. Dave Thomas and the Wendy's Foundation are pushing this. Coats would exclude this from taxation. I'm not sure whether it would also be deductible for the employer.

It would be awkward for us to propose this without also agreeing that the Federal government should offer this benefit to its employees. Coats proposes to do this. I don't know how feasible this would be for us.

cc: Jeremy Ben-Ami

DATE: May 1, 1996

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201

PHONE: (202) 690-6311

FAX: (202) 690-8425

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
HUMAN SERVICES LEGISLATION
ROOM 413 H HUMPHREY BUILDING

TO : Diana Fortuna
OFFICE : _____
ROOM NO : _____
PHONE NO : _____
FAX NO : 456-7028

FROM:

☒ MARY M. BOURDETTE
☐ BARBARA P. CLARK
☐ MARION ROBINSON
☐ DOUG HAAR
☐ LULA BARNES

TOTAL PAGES
INCLUDING COVER): 5

REMARKS:



DATE: April 21, 1996
TO: Tribal Leaders, ICWA Programs, and Interested Organizations
FROM: National Indian Child Welfare Association
RE: Legislative amendments to weaken the Indian Child Welfare Act

**CONGRESS VOTING ON AMENDMENTS TO WEAKEN THE INDIAN
CHILD WELFARE ACT DURING WEEK OF MAY 6TH!**

NATIONAL
INDIAN
CHILD
WELFARE
ASSOCIATION

3611 SW Main St.
Suite 201
Portland, OR 97201
Phone
503.222.4044
Fax
503.222.4007

As many of you know, the Indian Child Welfare Act has been constantly under attack in Congress during the last year. Fortunately supporters of ICWA like Senator McCain, Chairman of Senate Indian Affairs Committee and Congressman Don Young, Chairman of the House Resources Committee, have been able to suppress efforts by some congressional members to significantly change many portions of the ICWA. However, one of the most active and outspoken critics of the ICWA, Congresswoman Deborah Pryce of Ohio has joined forces with Congressman Todd Tiahrt of Kansas to introduce another bill to amend the ICWA - H.R. 3275. This bill, H.R. 3275, will be offered as an amendment to a larger adoption bill that the House of Representatives will consider on May 6th during what is being called "House Adoption Week." By attempting to have her new bill considered on the House floor without a committee hearing or time for Indian Country to comment, Congresswoman Pryce is hoping that she can get passage of the bill before there is time to discover the many problems her amendments have. Because of the short timeline on this it is absolutely imperative for all tribes to respond immediately by fax and phone call. Below we have provided an analysis of the legislation, strategies for responding, and some talking points that can be used in a fax letter.

Analysis

The legislation attempts to severely limit the application of ICWA in both voluntary and involuntary child custody proceedings involving Indian children. To better understand the analysis below, please refer to the attached copy of the bill.

Section 1: Only allowing ICWA to apply to child custody proceedings where at least one parent is of Indian descent and maintains significant social, cultural, or political affiliation with the Indian tribe of which the parent is a member of. This determination will be made by state courts which will have discretion as to what merits a significant social, cultural, or political affiliation.

Section 1: Making all court decisions that ICWA does not apply based on determinations under Section 1 final. While it is unclear as to the specific effect this would have on ICWA proceedings, it appears as if the sponsors are intending to take away any chance for an appeal or reversal of a state court decision based on Section 1, no matter how wrong the decision was.

Section 2: Not allowing a person who becomes 18 years of age before becoming a member of an Indian tribe to actually be considered a member without their written consent. The sponsors appear to be trying to stop the application of ICWA in situations where, for example, a grandparent might enroll their son or daughter



without their knowledge to have the ICWA apply to a child custody proceeding involving their grandchildren.

Section 2: For the purposes of a child custody proceeding involving an Indian child, only recognizing a membership in an Indian tribe from the actual date of membership admission. While again it is unclear as to exactly what is intended here, it appears that the sponsors are trying to deny application of the ICWA to Indian parents and children who become members of a tribe after they become involved in a child custody proceeding.

Section 3: The proposed amendments will take effect upon the day that the legislation is enacted into law and then apply to any child custody proceeding in which a final decree has not been entered as of that date. While this provision is not unusual by itself, courts hearing ICWA cases that are still in litigation as of the date of enactment of these amendments will then have to re-evaluate whether the ICWA should still apply.

What You Can Do

It is critical that all ICWA supporters have their voices heard immediately on the need to stop these proposed amendments. Most of the House of Representatives members know very little, if anything about the ICWA and how these amendments would hurt Indian children and families. To help stop these amendments you should do the following:

- 1) Review this memo and the attached legislation carefully. The National Indian Child Welfare Association will be glad to answer questions or assist you in better understanding how this legislation will affect your community.
- 2) Develop a short, no more than two page letter using the analysis, talking points and any other information you want to include. In your letter be sure to ask your House member to speak with House Republican Leaders regarding your opposition to the Representatives Pryce and Tiahrt Indian Child Welfare Act amendments that will be offered on the House floor to a larger Adoption bill on or around May 6th.
- 3) Fax a copy of your letter to your House member and call the House Republican Leaders listed below and tell them of your opposition to the Representatives Pryce and Tiahrt Indian Child Welfare Act amendments that will be offered to a larger Adoption bill on or around May 6th.

The Honorable Richard Arney
Majority Leader
House of Representatives
(202) 225-4000

The Honorable Tom DeLay
Majority Whip
House of Representatives
(202) 225-0197

Talking Points

- Congress, after years of hearings and research, passed the Indian Child Welfare Act to help protect Indian parents and children after countless documented accounts of Indian children being removed unnecessarily from their homes and torn away from their families and communities. Representative Pryce wants to undo with no hearings what Congress spent several years of hard work to document and enact. This is being done despite the objections of the Chairman of the House Resources Committee which has jurisdiction on this issue.
- At a May 10th hearing last year on another bill to amend the ICWA, H.R. 1448, sponsored by Representative Pryce, several tribes and leading experts on Indian foster care and adoption provided testimony and recommendations on how to most effectively resolve the issues that Congresswoman Pryce said she was concerned about. Yet she has not contacted even one tribe or Indian organization to discuss her most recent legislation or use any of the valuable information that was provided in testimony in crafting her bill.
- Representative Pryce has falsely stated that the Indian Child Welfare Act was never intended to provide protections to off-reservation Indian children or families, when in fact this was the primary group that Congress identified as most needing protections. The was based on the vulnerability of off-reservation Indian children to unnecessary removals from their families by state and private institutions that were biased against or had little appreciation for Indian culture.
- The bill has many serious flaws that will cause an explosion of new litigation on virtually every section of the bill. This will only result in setting back efforts to find good homes for Indian children awaiting adoption or foster care - the very problem that Congresswoman Pryce says she is trying to resolve.

Some of the most serious flaws of the bill and questions surrounding it include:

- Section 1 - What is social, cultural, or political affiliation? What evidence proves or disproves such affiliation? What does it mean to be affiliated as of the time of the proceeding? Does the court consider the affiliation over the last 10 years or just within the last month? What if a child maintains such relationship through a grandparent or other relative, but the parent does not? What does it mean that a determination of non-affiliation is final? Does it mean that a tribal judges determination cannot be appealed to a state appellate court or that a state appellate court decision which violates the ICWA cannot be reviewed in a federal court? What if a natural parent claims a lack of affiliation, the judge accepts this representation and two weeks later an Indian tribe presents overwhelming evidence that the parent has substantial contacts with the tribe?
- The bill replaces a bright line political test - membership in an Indian tribe as the trigger for the coverage of the ICWA - with a multi-faceted test that transforms the classification into more of a racial identification test. This may very well be

unconstitutional since the legitimacy of Indian-specific legislation rests upon the fact that such legislation is based upon a political classification, and not a racial classification.

- There is no evidence that excluding children whose parents do not maintain a social, cultural, or political relationship with a tribe is good policy. Just because the child's parents may be deemed as having little affiliation with their culture does not mean that the child's maintaining a relationship with their grandparents or other relatives becomes unimportant by reason of the parent's lack of affiliation. Indeed, the empirical evidence is that maintaining these relationships is in the child's best interest.
- Section 2 - This section does not reflect the realities of how tribal membership mechanisms work and would likely exclude coverage of vast numbers of bona fide Indian children from coverage by the Indian Child Welfare Act. Many Indian children are not formally enrolled, but are clearly members of a tribe and could be enrolled. In addition, assertions by the sponsors that tribes are trying to make members of everyone, "even with as little as 1/1000th Indian blood" are simply ridiculous. First of all tribes reserve the right to determine their own memberships as sovereign governments, not unlike the United States. Secondly, tribes have every incentive to not be enrolling children who are not legitimately connected with the tribe since ultimately these children will be eligible for benefits that the tribe provides to its members - benefits which are generally limited in nature.
- Section 2 would also impact Indian children and families resident or domiciled on the reservation. Typically, child custody proceedings involving these families would be under the exclusive jurisdiction of the tribal court. However, based on state, not tribal, standards in those circumstances where a state court misinterprets the parent or child's membership status or where the parent or child have not been formally enrolled, but are clearly members, states would have the authority to come on to the reservation and remove Indian children from their homes. There would be no requirement that an extended family or tribal placement for the child be sought. Tribal court authority over the voluntary and involuntary placement of such children would be lost, essentially taking us back to the types of rampant abuse which gave rise to the Indian Child Welfare Act.

For more information or assistance please contact NICWA staff member David Simmons at (503) 222-4044.

October 7, 1995

TO: Hillary Clinton
FROM: Deborah Both
RE: Adoption: Summary of Meeting and Next Steps

SUMMARY OF MEETING

As we heard in the September 29th meeting, adoption is a very complicated process involving several "domains" in both the public and private sectors. The key problems and issues associated with adoption include: lack of focus on the well-being of the child; mismatch between public and private adoption systems; transracial misconceptions and practices; inadequacies of the current foster care system; slow parental rights relinquishments; clogged court dockets; and lack of funding for technical assistance, improved recruitment and follow-up services and staff training.

Adoption data are not always consistent or current. Using 1992 data, 127,441 children were adopted in the United States. Of these children, 37% (47,012) were adopted outside the auspices of a public or private agency; 31% (39,362) were adopted by a relative or stepparent; 13% (16,731) came from private agency adoptions and 19% (24,336) were adoptions from the foster care system.

public = fc?

In recent years, the number of voluntary relinquishments have decreased dramatically. The majority of children eligible and free for adoption are school-aged; one-third are less than five years of age; and only 4% are less than one year of age.

< Two out of three are classified as special needs children.

Federal adoption programs include:

- o Title IV-E provides adoption subsidy and support to special needs children and dollars for placement services
- o Adoption Opportunities Program encourages states and agencies to move children into permanent families. It funds a national adoption clearinghouse and the National Adoption Exchange
- o Multiethnic Placement Act allows race to be considered as a factor in adoption but not does allow discrimination in the adoption process based on race. Toward this end, HHS provides technical assistance and ultimately enforcement.

only sn?

o Indian Child Welfare Act gives Indian tribes special jurisdiction over Indian children regarding child welfare matters, services and adoption.

Adoptions are under the aegis of state law and vary significantly among states. In Illinois, according to one state official, children are spending too much time in the system...they are coming in at an earlier age and staying longer (this concern was voiced time and again by meeting participants). Too many children are languishing in foster care situations with relatives and are therefore less likely to be adopted. Lastly, race is a serious factor. Eighty-one percent of the waiting children in Illinois are African-American.

The judicial system plays an important gatekeeping role in the adoption process. Reforms that the courts and their legal associations are considering include shortening time requirements for permanent placements, judicial oversight over adoption fees, and assigning higher priority to children and adoption cases within the current clogged court system.

Key barriers and tensions surrounding public and private adoptions fall into four areas:

(1) Myths abound that adoption is not just second best but dangerous. The media has contributed to this negative image problem by sensationalizing a very few worst case scenarios involving birth fathers/parents regaining custody of their children from adoptive parents. In fact, a substantial amount of research proves that adoption works well for both children and parents.

(2) A tension exists between birth and adoptive parents, often times involving issues of substance abuse and timing of parental rights relinquishment.

(3) Incorrect notions and myths regarding special needs children and available parents pervade the adoption world. In fact, the experts feel that there are always parents available for children regardless of age, race, handicap, or special need.

(4) Time is a major barrier. A lack of a sense of urgency among agencies and the courts results in children of all ages staying in the public system too long, infected by its ill effects, and ultimately becoming "special needs" kids. Also, we've set up a system with an emphasis on the desirability of younger children to the detriment of older children who need permanent homes as much or more than infants.

RECOMMENDATIONS and NEXT STEPS

All of the meeting's participants agreed with your premise that adoption policy and practice must be refocused as a service for children with the goal of placing children in permanent families and homes in a timely manner.

To accomplish this, many changes must occur at the federal, state, and judicial level. You can serve as a catalyst for such changes by undertaking a campaign to increase the public's awareness and knowledge about adoption issues and to debunk many of its myths. Through a series of events, speeches, columns, etc., you could reframe and champion the benefits of adoption and highlight existing exemplary practices and success stories. Your theme is singular: all children need and deserve permanent families and homes in order to grow to their full potential.

As a first step, taking full advantage of November's designation as National Adoption month, we propose you begin this campaign with the following activities:

(1) Issuing a proclamation from HHS re: National Adoption month

(2) Doing a PSA on adoption for HHS

(3) Participating in Barbara Harrison's Wednesday's Child series in which children waiting to be adopted are featured } lead. in to local

happen
(4) Participating in a November event at the White House with the Dave Thomas Foundation on Adoption (Dave Thomas, owner of Wendy's, is adopted and very active) They are still working on the details of the event

(5) Partaking in the November 21st Adoption Day activities in the District of Columbia's Court system *fdtn presb.*

(6) Doing a piece for the print media (e.g., People magazine) on adoption and its successes with adoptive families and children. *NO*

These (and perhaps other) public activities will send a powerful message regarding your commitment to children and the adoption process. This particular message could ultimately become part of your broader message/theme targeted at improving outcomes for our country's children and families. *working in family*

Let me know what you want to do and I'll set it in motion with Patti. Thank-you.

cc: Melanne Verveer

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 5-3 ACTION/CONCURRENCE/COMMENT DUE BY: 5-3 3 pm

SUBJECT: Adoption Letter

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☐
PANETTA	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
ICKES	☐	☐	QUINN	☒	☐
LIEBERMAN	☐	☐	RASCO	☐	☐
RIVLIN	☐	☐	REED	☒	☐
BAER	☒	☐	SOSNIK	☐	☐
CURRY	☐	☐	STEPHANOPOULOS	☒	☐
EMANUEL	☒	☐	STIGLITZ	☐	☐
GIBBONS	☐	☐	STREETT	☐	☐
HALE	☐	☐	TYSON	☐	☐
HERMAN	☐	☐	WALLEY	☐	☐
HIGGINS	☐	☐	WILLIAMS	☐	☐
HILLEY	☒	☐	<u>Verrier</u>	☒	☐
KLAIN	☐	☐	_____	☐	☐
LAKE	☒	☐	_____	☐	☐
LINDSEY	☐	☐	_____	☐	☐

REMARKS:

Comments to Diana Fortuna
65570

RESPONSE:

call (Baer) Hilley, George, (A)

Staff Secretary
Ext. 6-2702

DRAFT

May 6, 1996

Dear :

I am writing to express my strong support for The Adoption Promotion and Stability Act of 1996. Today, there are about 450,000 children in the United States who need permanent families. Yet the tens of thousands of families seeking to adopt children face significant barriers, including high adoption costs, complex regulations, and outdated assumptions. The First Lady and I are committed to easing and encouraging adoption.

My Administration championed the Family and Medical Leave Act which ensures that parents can take time off when they adopt a child without fearing the loss of their jobs. We launched a public education campaign about adoption. We strongly supported the Multi-Ethnic Placement Act to help increase the number of adoptions by prohibiting discrimination based on race or ethnicity. We remain committed to enforcing that law vigorously. As part of OBRA 1993, I signed into law a provision that requires most ERISA plans to provide the same health coverage for adopted children that they do for biological children of plan participants. We have increased the number of children with special needs who have been adopted with Federal adoption assistance by 30 percent. The First Lady has continually urged all Americans to do more about adoption in her speeches, columns and her recent book, and she has convened experts, adoption advocates and concerned parents to work on making the process simpler and more efficient.

But together we can and must do more. I strongly support the adoption tax credit in this bill. It will alleviate a significant barrier to adoption and allow middle class families, for whom adoption may be prohibitively expensive, to adopt children to love and nurture. It will encourage adoption of children with special needs. It will put parents seeking to build a family through adoption on a more equal footing with other families.

I also believe that the adoption and foster care provisions in title II of the bill are consistent with the Administration's policy and my longstanding goal to end the historical bias against interracial adoptions, which too often have meant interminable waits for children to be matched with parents of the same race.

We should set a goal of reducing our foster care and adoption rolls by 100,000 children each year for the next five years. The Adoption Promotion and Stability Act is an important first step toward meeting that challenge. I look forward to working with you on it so that the dreams of the waiting children in this country to have permanent homes and loving families can become a reality.

Sincerely,

January 5, 1996

MEMORANDUM FOR PRESIDENT CLINTON**FROM LESLIE B. SAMUELS****THROUGH SECRETARY ROBERT E. RUBIN****SUBJECT: ADOPTION TAX CREDITS: BACKGROUND AND ALTERNATIVES**

The Balanced Budget Act (BBA) includes a tax credit for adoptions. It would provide a 100% non-refundable credit for the first \$5,000 per child of eligible adoption-related expenditures (including expenditures that are reimbursed by the states for "special needs" adoptions). No credit would be allowed for step-parent adoptions; and the credit would be phased out between \$75,000 and \$115,000 of AGI. JCT estimates that the BBA adoption proposal would cost \$1,945 million over FY1996-FY2002, and \$2,960 million over FY1996-FY2005.

We have significant concerns about the BBA adoption credit. The following policy issues are presented for your consideration as well as two possible proposals which we believe represent better tax policy than the BBA provision.

- o The number of people seeking to adopt non-special needs children exceeds by several times the number of such children available for adoption. Conversely, there is a shortage of adopters for "special needs" and similar children.
- o Adoption assistance should be targeted. Adoption assistance is best targeted when provided through outlay programs. Adoption tax relief provides windfall benefits to those who would undertake adoptions anyway but does not provide sufficient incentives for lower income families to undertake adoptions.

-- This is particularly true for "special needs" adoptions which are undertaken predominately by foster parents (typically lower- and middle-income families) who are already providing homes for these hard-to-place potential adoptees.

-- A refundable tax credit would be of more benefit to lower income families for whom the incentive created by tax relief would be greatest. However, refundable credits raise significant compliance problems.

- o A tax credit should not be for 100% of expenses. A 100% credit is essentially a direct expenditure program. It would encourage increases in adoption fees and costs, since they will be reimbursed through the 100% credit. A 100% credit also presents compliance and enforcement problems.

A tax benefit should not be allowed for reimbursed expenses. This "double dipping" would encourage unnecessary increases in expenditures so that costs currently borne by states or private agencies would be shifted to the Federal government. This is particularly true for "special needs" adoptions where government programs currently absorb most of the costs.

- o For "special needs" adoptions, the real need is for continuing long-term assistance, such as medical benefits which could be provided by automatic eligibility for Medicaid.

but cap is \$5K,
+ current ave.
cost is \$14K

Option 1: Target Credit to "Special Needs" Adoptions.

The credit would be restricted to expenditures for "special needs" adoptions, and no credit would be allowed for reimbursed expenditures. The credit would be 50% of the first \$5,000 of eligible expenditures. With the same income phase out range as in BBA, the cost of this option is \$58 million over FY1996-FY2002, and \$88 million over FY1996-FY2005.

By targeting "special needs" adoptions and addressing some of the concerns mentioned above, we believe that this option would be good tax policy and would encourage "special needs" adoptions that would not otherwise occur.

Option 2 - Reduce Maximum Credit to \$2,000 as mentioned by Senator Dole.

The credit would be 50% of the first \$4,000 per child of eligible adoption expenditures, and would not cover reimbursed expenditures. With the same income phase out range as in BBA, the cost of this option is \$723 million over FY1996-FY2002, and \$1,096 million over FY1996-FY2005.

Option 2 is far more liberal than Option 1, but by providing only a 50% credit rate and eliminating double-dipping, it eliminates the main objections to the BBA provision.

cc: Laura Tyson

Bruce:

Just so we know what the Administration has ever said about a tax credit, I thought you might be interested in seeing Treasury's testimony from January of last year on the Contract with America adoption tax credit. It is fairly noncommittal so it doesn't preclude anything, though it says nice things about limiting it to special needs.

Diana

For Release Upon Delivery

Expected at 2:00 p.m.

January 10, 1995

**STATEMENT OF LESLIE B. SAMUELS
ASSISTANT SECRETARY (TAX POLICY)
BEFORE THE
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES**

Mr. Chairman and distinguished Members of the Committee:

I am pleased to appear before this Committee today to present the Administration's views on the tax proposals in the series of bills collectively referred to as the "Contract with America."¹ The Contract raises broad issues of public policy concerning the proper size and scope of Federal government activity, the allocation of Federal budgetary resources, and the division of responsibilities between the Federal and State governments. In addition, the Contract contains several broad proposals, such as the proposed balanced budget amendment, which could indirectly have a major impact on the Federal tax system. These broad issues are beyond the scope of my testimony today, which will focus on the tax and tax-related provisions in the Contract and their tax policy implications.

There are fifteen tax and tax-related proposals in the Contract. The tax proposals are: (1) a \$500 per child refundable tax credit; (2) the "American Dream Savings Account;" (3) favorable tax treatment for long-term care insurance and services; (4) tax-free accelerated

¹ These bills include H.R. 2, the "Fiscal Responsibility Act," H.R. 3, the "Taking Back Our Streets Act," H.R. 4, the "Personal Responsibility Act," H.R. 5, the "Unfunded Mandate Reform Act," H.R. 6, the "American Dream Restoration Act," H.R. 7, the "National Security Restoration Act," H.R. 8, the "Senior Citizens' Equity Act," H.R. 9, the "Job Creation and Wage Enhancement Act," H.R. 10, the "Common Sense Legal Reforms Act," and H.R. 11, the "Family Reinforcement Act."

-10-

Discussion

The Administration supports an increase in the maximum investment that may be expensed for small businesses. The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) increased the maximum from \$10,000 to \$17,500. We supported this Committee's version of OBRA 93 which, like the Contract, would have raised the maximum to \$25,000. Increasing the maximum to \$25,000 would provide an incentive for small businesses to increase their investment in capital assets. In addition, the proposal also would simplify tax reporting for eligible small businesses.

6. \$5,000 Refundable Tax Credit for Adoption Expenses

Current Law

The Tax Reform Act of 1986 repealed a deduction of up to \$1,500 for expenses related to special needs adoptions and replaced it with an outlay program with several components. States are required to reimburse families for costs associated with the process of adopting special needs children. The Federal government shares 50 percent of the first \$2,000 of such costs. Some special needs adoptees are eligible for continuing Federal-State Social Security assistance, including Medicare, under Title IV-E of the Social Security Act. Other adoptees may be eligible for continuing assistance under state-only programs.

Proposal

The proposal provides a refundable tax credit of up to \$5,000 for adoption expenses in tax years beginning in 1996 and subsequent years. The credit would be allowed for all adoptions, not solely for the adoption of a child with special needs. The credit would be phased out for taxpayers with AGI between \$60,000 and \$100,000.

The proposal would reduce tax receipts by \$1.4 billion over the five year FY1996 FY2000 period, and by \$3.3 billion over the ten-year FY1996 - FY2005 period.

Discussion

We believe that it is generally more cost-effective to target federal support for adoption to adoption of special needs children. By applying to all adoptions, this proposal provides benefits for adoptions that would occur even without the credit. In addition, administrative issues need to be addressed in the context of a refundable credit.



DEPARTMENT OF THE TREASURY
OFFICE OF TAX LEGISLATIVE COUNSEL

1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Number of pages: 3
INCLUDING COVER SHEET....

DATE: 4/25/96

TO: Diana Fortuna 1 456-7431 1 456-5570
Name FAX number Confirmation number

FROM: Mike Thornton 1 622-1336
Name Phone number

Sender's FAX number: 202/622-1772 Location: Room 4206MT

Sender's Confirmation Number: 202/622-2649

Comments/Special Instructions: Cathy Livingston says hello.

NOTE: THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND/OR RESTRICTED AS TO OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. If the recipient of this message is not the addressee (i.e., the intended recipient), you are hereby notified that you should not read the document and that any dissemination, distribution, or copying of the communication, except insofar as is necessary to deliver the document to the intended recipient, is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone, and you will be provided further instruction about the return or destruction of this document. Thank you.

UNCLASSIFIED

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

30-Apr-1996 01:17pm

TO: FORTUNA_D
FROM: Wendy Jacobson

SUBJECT: adoption

I was told that Mary Bourdette and Carol Williams are working together on an analysis of the bill and draft position statements. They will be available in the next day and we will get them to you. These should include a description of where we are on the adoption tax credit. I'll keep you posted.

2/04/95

ADOPTION TAX CREDIT

Q. What are your views on the proposed federal income tax credit for expenses associated with adoptions?

A. There is no reason, beyond budget impact, to object to providing a federal tax credit for certain expenses associated with adoption, as long as it is understood that it is no substitute for ongoing adoption assistance for special needs children. The tax credit, as proposed in H.R. 11, would be available to all adopting parents, whether they itemize their deductions or not, and would diminish in value as adjusted gross income rises above \$60,000. The credit would apply to a maximum of \$5,000 in specified adoption expenses.

Although it is a refundable credit, this provision of the Internal Revenue Code would not completely replace the current provision of the Social Security Act which offers federal financial participation to States for payments they make for non-recurring costs associated with the adoption of special needs children. A tax credit which promises reimbursement months into the future would not be adequate to the immediate needs of low and moderate income adoptive families. Since any payments made under the non-recurring costs authority would not be eligible for the proposed tax credit, there is no problem with making both provisions available to adoption agencies and the families they work with. The non-recurring costs provision should be retained to facilitate placement of children, as appropriate, with low-income families, including relatives.

Because the adoption of special needs children provides such children with a permanent, loving home, and relieves State and local government of a significant burden, it is important to maintain every possible support for special needs adoptions. Every State has determined that it is programmatically sound, as well as economically prudent, to offer adoption subsidies to facilitate the adoption of special needs children.

The availability of reimbursement for non-recurring costs and the offer of adoption subsidies, when needed, are critical to the success local agencies have had in placing special needs children in permanent homes. The continuation of federal financial participation for these State actions is a critical means of finding and maintaining adoptive placements for special needs children. Federal participation in these State-authorized subsidies is an important encouragement to States to maintain these good practices, and provides financial benefits for the federal government as well in the form of reduced foster care costs.

transracial adoption: drop solely and categorically, but
guidance is so tough, has no effect

dropped current recruitment provisions??

expand scope?? private and state?? _

- private agencies anti?

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

30-Apr-1996 11:04am

TO: Diana M. Fortuna

FROM: Melinda D. Haskins
 Office of Mgmt and Budget, LRD

SUBJECT: RE: is hr 3286 the adoption bill?

House Resources removed Title III. Ways and Means marks up tomorrow. I haven't heard anything about EEO. Treasury's Mike Thornton tells me that Roth may change the tax provisions in the Senate, but that it's not clear when a similar bill would be introduced.

H.R. 4 proposed an adoption tax credit. We have not. According to Thornton, Treasury is not likely to object to the credit, though Les Samuels has gone on record stating that the current version of the tax credit could be better targeted. Thornton will fax me Treasury testimony given in Jan. 1995 on the subject. I'll share it with you if you'd like a copy.

I presume that our position on the non-tax provisions in H.R. 3286 will have to be crafted carefully. I'll get Reed, et al, a copy of the LRM and the bill. Views on the bill are due Friday morning.

If I learn anything else, I'll let you know.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

24-Apr-1996 05:39pm

TO: (See Below)

FROM: Diana M. Fortuna
Domestic Policy Council

SUBJECT: See attached wire story on adoption tax credit & MEPA

Date: 04/24/96 Time: 16:23
AHouse Republicans Revive Adoption Legislation

WASHINGTON (AP) House Republicans revived ``Contract With America'' legislation Wednesday offering a \$5,000 tax credit to offset adoption expenses and making it easier for white parents to adopt black and American Indian children.

The credit, which would be phased out for families with incomes between \$75,000 and \$115,000, was part of the massive balanced budget bill vetoed in December by President Clinton.

Republicans this year are trying to split out and enact as many noncontroversial provisions from their 1994 campaign agenda as possible.

GOP leaders plan to bring the bill, introduced Wednesday, to the House floor next month around Mother's Day.

In addition to offering the credit, it also prohibits state and private adoption agencies receiving federal funds from denying adoption or foster placement on the basis of race, color or national origin.

While race may be a factor in placing the child, it cannot be used as a reason to delay placement.

Congress in 1994, when it was controlled by Democrats, passed the Multiethnic Placement Act, which has the same intent. But Republican critics say Health and Human Services Department regulations implementing the act are too lax. The GOP bill would impose a series of graduated fines on states that violate the provision.

``The practice of prohibiting transracial adoption must end,' said Rep. Susan Molinari, R-N.Y. ``It is clear that the child's best interest is served by getting them out of the foster care system as soon as possible rather than denying or delaying their adoption.''

She said nearly 500,000 children are in foster care, nearly half of them minorities, while only 50,000 a year are adopted.

Interracial adoptions were first done in significant numbers in the 1960s, but declined dramatically following a 1972 statement of opposition from the National Association of Black Social Workers.

The group argued that only a black family could give a black child the racial identity, connections and strength to survive in a racist society. Today, the association says interracial adoptions should be allowed only after exhaustive efforts to find a relative or black family have failed.

The Republican bill also eases provisions of the 1978 Indian Child Welfare Act intended to prevent Indian children from being removed from their homes. Rep. Deborah Pryce, R-Ohio, said the proposed changes would facilitate adoptions when the birthparents do not maintain a significant affiliation with an Indian tribe and are voluntarily placing their child for adoption.

APNP-04-24-96 1624EST

Distribution:

TO: Carol H. Rasco
TO: Jeremy D. Benami
TO: Elizabeth E. Drye
TO: Bruce N. Reed
TO: Kenneth S. Apfel
TO: Christopher D. Cerf
TO: Jennifer L. Klein

THE WHITE HOUSE

Office of the Press Secretary

Internal Transcript
October 1, 1995

REMARKS BY THE PRESIDENT
IN CATHOLIC ROUNDTABLE

The Cabinet Room

12:15 P.M. EDT

Well, welcome. I'm glad to see you.

Q Thank you.

THE PRESIDENT: I know you have a lot of questions, so I want to get right into it.

But before we start, I thought I'd like to just say a couple of things.

First of all, I'm happy to tell you that when the Pope comes here next month, I will have the opportunity to meet with him up in New Jersey; I'm looking forward to that. I think it will our third meeting; the first in Denver and the second at the Vatican. I'm very, very happy about that.

As you know, we're having a lot of interesting budget discussions here in Washington today, and a lot of you because of your particular interests are deeply familiar with the various issues in play. But I would like to just make a couple of observations.

First, I think when the history of this era is written, people will look back on it and say it was the period of most profound economic and social change since the industrial revolution came to America 100 years ago.

And when we became an industrial and more urbanized society, moving out of a rural, more agricultural society, it took us about 20 years, from more or less the end of the 1890s to the beginning of the end of the teens -- 1916 to 1919, to work out what we thought the responsibility of our nation's government was and what our common responsibilities were to deal with that. Now, that was defined all the way up and through the Great Depression and then after World War II. But essentially, the pattern was set in that 20 years.

But I did believe that unless the world community said that there has to be a limit to the slaughter of innocent civilians and we have recognized this government and we're not going to let them be dismembered anymore, that we cannot make peace.

On the other hand, I also thought it was very important that in the first security crisis in Europe after the end of the Cold War that the Europeans be supported, be permitted to take the lead, as they asked to do before I became President, and that we had to preserve our ability to work with the United Nations and with NATO for the long run, even beyond Bosnia -- there will be other issues and other days, and we're trying to make the U.N. work for the first time. And at the end of the Cold War, we've really got a chance to make it work in important ways, and it has in Cambodia -- the U.N. has played an important role in Angola and a lot of other places.

So there were times where I had to sit and watch things occur in Bosnia that I thought were wrong, that I thought more aggressive policy might prevent. But I knew that the French and the British were on the ground there with the Dutch and others, and I knew they were feeding people who would be dying otherwise. I knew that the very presence of the U.N. forces there were keeping people alive who would not have been alive otherwise.

And so I had to live in a kind of political purgatory for some weeks and months when things were going on that I didn't agree with because of the utter competing and offsetting -- where there seemed to be two moralities and two practicalities and two sets of facts that were completely at loggerheads with each other. Those are the most difficult decisions for me -- not the ones that are clearly unpopular or clearly likely to provoke a terrible reaction, but when there really are these competing considerations which cannot be easily sorted on one side or the other.

Q Mr. President, we've talked tangentially about the issue of abortion as one that many Catholics are very concerned about. You've said that you would like abortion to be safe, legal and rare. But many people see your administration as having consistently moved in the direction of making abortion more accessible in the direction of more funding for abortion as being, quite frankly, pro-abortion in various ways.

Could you point to some things that your administration has done, or could do, to make abortion rare?

THE PRESIDENT: Well, first of all, we've maintained what I think was basically the present policy with regard to the operation of the Medicaid program, except

MORE

I thought -- I do believe that we should -- for a while, we had a rape and incest addition to the life of the mother exception, and we repealed the Mexico City policy because I thought it was inconsistent with what the law was in this country and, therefore, what our policy ought to be.

The best example of it is the work I've done to try to increase the number of adoptions, and I hope to do more of that, and to try to remove the barriers to cross-racial adoptions, which I think are a pivotal factor in succeeding in getting America into a situation where we can do that.

I think we also need to do more than we have done, but I want to do more to speed up the process of adoptions, to move them so that we can begin then to hold out to young people who aren't married but who do get pregnant the possibility of having adoption as a real and viable, immediate alternative that we can push and publicize.

Hillary wrote a column -- interestingly, Hillary wrote one of her newspaper columns about what we wanted to do in adoption and about what we were trying to do to strip away the barriers to cross-racial adoptions. And it got a bigger response than all of the newspaper columns that she's written by far, since she started writing the column; the adoption column got way the biggest response. So I think that there is out there in the country a kind of a yearning for doing something about this, and maybe a lot of people who haven't thought about it before would be willing to take responsibility for some of these children if they were brought into the world, and my own view is that that is something we could do that would -- I think has the potential to substantially reduce the abortion rate, because people thought -- began to focus on and see adoption as a real, viable alternative, and to see an American system that has some integrity and speed to it -- I mean, appropriate speed, not just throwing these kids in any kind of situation.

But I think the whole adoption process in America has been overly bureaucratized and is also somewhat arbitrary in terms of who is successful or not in getting a child, and I would like to see this thing moved very rapidly.

I think it is an area where the government and the Catholic Church, and even a lot of people who would otherwise never support us on anything might come together and find a common ground. And I would very much like to see it done.

Q Mr. President, there is a thought in some members of the Catholic community that with regard to some

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

November 1, 1995

NATIONAL ADOPTION MONTH
1995

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

For many people across the United States, adoption provides a means for building and strengthening families. It places children into loving, permanent homes where they can flourish and grow up to become happy, healthy, productive members of our national community. Adoption also enables adults to experience the unique joys of parenthood.

As many as 70,000 children in America's foster care system may need adoptive families in the next few years -- young people of all ages and backgrounds who, for whatever reason, cannot return to their original homes. Many, but not all, are children with special needs. These young people long for the same affection, security, and stability that most of us take for granted, yet too many have waited -- and will continue to wait -- for years to be adopted.

My Administration has taken important actions to encourage adoption and to support the wonderful families that choose to open their hearts and homes to waiting children. The Multiethnic Placement Act, which I signed into law in October 1994, helps to facilitate adoption for all children and families, regardless of their race or ethnic origin. We will continue to champion and improve programs that break down barriers to adoption through aggressive recruitment of families, financial aid to support placements, and technical assistance to agencies committed to special needs adoption.

As we observe National Adoption Month, we celebrate these achievements and recognize the rewards of adoption, but we must also remember that much work remains to be done. Citizens from all communities and organizations from the public and private sectors must join together to renew our commitment to finding permanent homes for each one of America's children.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 1995, as National Adoption Month. I urge the people of the United States to observe this month with appropriate activities and programs and to participate in efforts to find permanent homes for waiting children.

IN WITNESS WHEREOF, I have hereunto set my hand this

first day of November, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.

WILLIAM J. CLINTON

#

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

02-May-1996 05:08pm

TO: Jennifer L. Klein
TO: Diana M. Fortuna

FROM: Bruce N. Reed
 Domestic Policy Council

SUBJECT: Adoption letter

I'm going to be out of town tomorrow, but I'll call you. You should work out the press strategy (who to give it to and when) with Melissa Skolfield at HHS (690-7850). I've told her about it. If you need to track me down, just let Cathy know.

Thanks!

The Cultural Policy Studies Project

July 27, 1995

WHY SERIOUS WELFARE REFORM MUST INCLUDE SERIOUS ADOPTION REFORM

INTRODUCTION

With the national out-of-wedlock birthrate heading toward 40 percent by the year 2000, and 50 percent around the year 2012, lawmakers are concerned about the increase in abused and neglected children which likely will accompany this disturbing trend. There now are close to 500,000 children in the foster care system,¹ but only about 50,000 are cleared for adoption each year. Because of bureaucratic obstacles, many of these children cannot find a permanent, loving home.²

The comprehensive House welfare reform bill (H.R. 4, the Personal Responsibility Act) tries to address this problem by rewarding states for reducing their out-of-wedlock birthrate without resorting to abortion. But another way is to increase early adoptions of neglected children. During the congressional debate, some Members balked at trying to reduce the illegitimacy rate, fearing they might appear harsh or uncaring toward the young unwed mother and her child. For these lawmakers and others with similar apprehensions, adoption is a solution that is kind to both mother and child. Its advantage is well documented: a better life.

The House-passed tax reform bill (H.R. 1215) also encourages adoption. To help defray the significant costs involved, a couple whose income is below \$60,000 receives a \$5,000 tax credit. This credit is reduced gradually for couples with incomes between \$60,000 and \$100,000 and phased out at incomes above \$100,000. While significant,

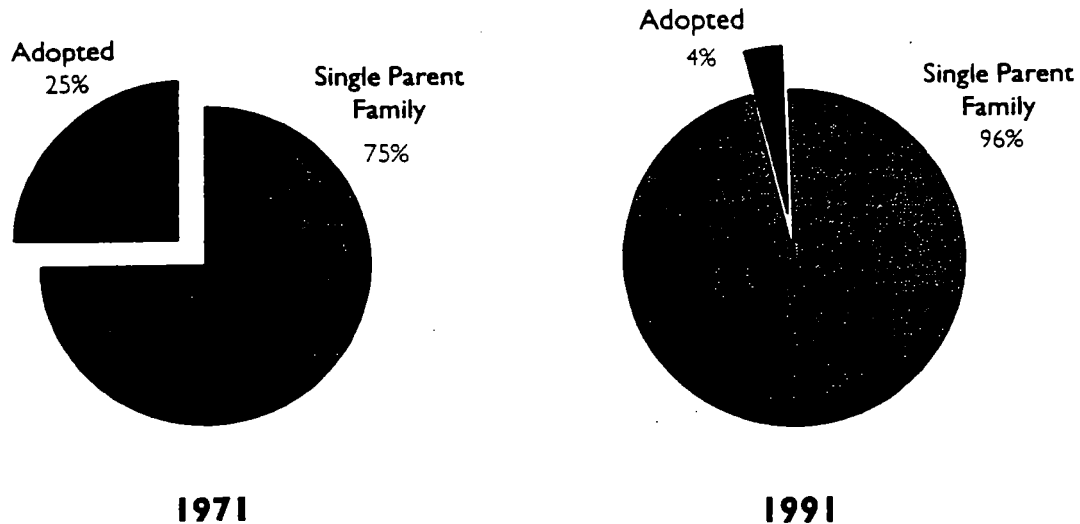
¹ In FY 1992, a total of 659,000 children were in or passed through substitute care (foster care and specialized homes for foster children) during the year. The 421,000 children in substitute care at the beginning of the year had grown to 442,000 at the end of the year. From American Public Welfare Association, *Voluntary Cooperative Information System (VCIS) Research Notes* No. 9, August 1993.

² For an excellent overview of the anti-adoption bias in government agencies, see Conna Craig, "What I Need Is a Mom," *Policy Review*, Summer 1995, pp. 41-49.

**PHOTOCOPY
PRESERVATION**

Chart 1

Proportion of Unwed Births Adopted



Sources: *The Adoption Factbook*, National Committee for Adoption, June 1989; NCFA Memos.

however, this step will not lead to a major increase in adoption unless the barriers to adoption in the social service bureaucracy are removed by congressional and state action.

Adoption rates have declined in recent decades as adoption has fallen out of favor with state governments and the social services establishment. In 1979, 598,000 babies were born out of wedlock; almost one in four was adopted. In 1991, of the 1,225,000 born out of wedlock, only one in 25 was adopted (see Chart 1). Yet public interest has increased: close to two million couples would like to adopt these children. Clearly, the problem is far more basic than any financial burden that may be involved.

Because of the vast need for adoption and the large pool of parents willing to adopt, Congress not only should encourage adoptions through generous tax relief for adopting parents, but also must change the public social service ethos by eliminating all barriers to speedy and permanent adoption.

The simplest and fastest way to bring about these improvements is to privatize all adoption services. Government agencies have institutional strengths in applying and enforcing the law, but private institutions can better harness the human qualities needed to nurture and develop children. To encourage adoption through private organizations, and to reduce barriers to adoption through government agencies, Congress, the Administration, and the states need to take several important actions.

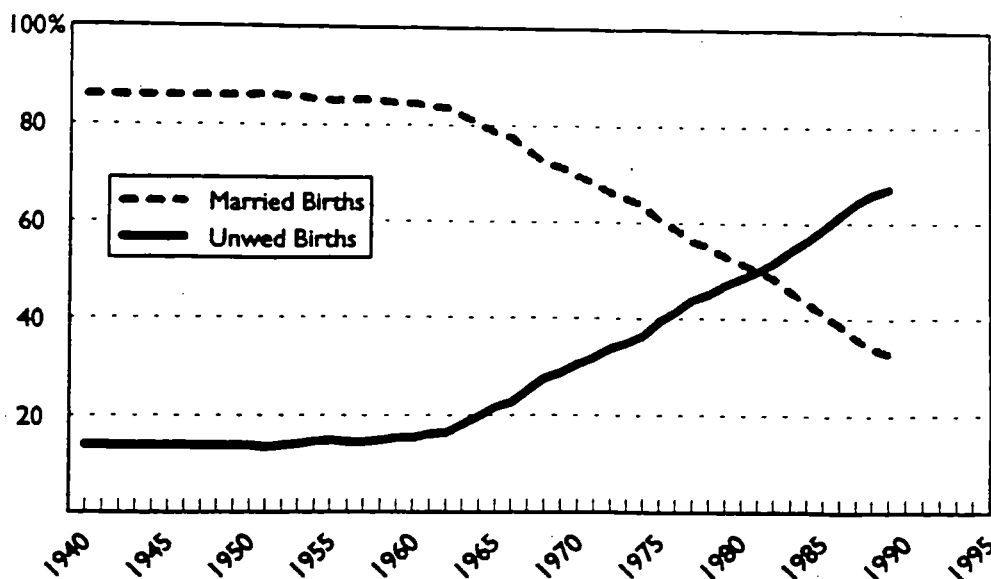
What the federal government should do:

- ✓ Enact a means-tested, fully refundable, inflation-adjusted tax credit of up to \$5,000 for non-recurring adoption expenses.

**PHOTOCOPY
PRESERVATION**

Chart 2

Unwed Births Are Increasing for Women Under 20



Source: U.S. Bureau of the Census, Current Population Survey, 1991.

- ✓ **Hold hearings on the Clinton Administration's blocking of a very effective drug testing and treatment program for cocaine-addicted pregnant mothers. If necessary, pass legislation to reverse the Administration's action.**
- ✓ **Issue annual report cards on the rate of adoption in each state.**
- ✓ **Require federally funded family planning services to provide clear and accurate information on the benefits of adoption to all out-of-wedlock teenage mothers.**
- ✓ **Make it easy for all churches, particularly black churches that serve the poor, to affiliate with adoption agencies and become involved in the adoption process as outreach to prospective adopting parents.**
- ✓ **Ensure the civil rights of all children in foster care and modify the Multi-Ethnic Placement Act to prohibit any use of race or ethnicity to deny or delay the placement of a child for foster care or adoption.**
- ✓ **Change the Indian Child Welfare Act to curtail the reach of Indian Nation law over those who have emigrated from those communities and societies.**
- ✓ **Reject the language in the U.N. Charter on the Rights of the Child.**

What the states should do:

- ✓ **Privatize adoption services.**
- ✓ **Change the way public welfare agencies are financed so that they are obliged to contract for all public adoptions.**

**PHOTOCOPY
PRESERVATION**

- ✓ **Establish** separate units at the county level to assist the courts in making speedy and appropriate judgments.
- ✓ **Maintain** special Medicaid coverage for all special-needs adopted children.
- ✓ **Remove** obstacles to transracial adoptions.
- ✓ **Use** leadership opportunities to encourage adoption.
- ✓ **Establish** separate units for termination of the parental rights of convicted abusing parents.
- ✓ **Enact** a strict 12-month timeline for adjudication of the long-term parental status of every child in foster care.
- ✓ **Centralize** the collection of state data on all formal adoptions and foster care actions.
- ✓ **Enact** legislation subjecting public social service agencies to the same licensing standards and requirements as those imposed on private adoption agencies.
- ✓ **Mandate** drug testing of pregnant mothers suspected of drug abuse, particularly cocaine abuse.
- ✓ **Prohibit** the removal of a child eligible for adoption from foster parents who are willing to adopt, except when the child is being returned to his legal parents. Enact legislation to permit foster parents to initiate adoption proceedings.
- ✓ **Enact** laws requiring child welfare agencies to initiate adoption proceedings for any child who has been abandoned by his parents for six months.

Adoption works. It increases the emotional, physical, and cognitive capacities of the children who are adopted. It improves the life chances of the biological mother. It saves vast amounts of money for the public. It brings much happiness, both to the adopting parents and to the adopted child. It is good for all involved.

The current welfare reform debate in Congress offers one of the best chances in decades to promote adoption. Sharply rising out-of-wedlock births add steadily to the long-range costs of welfare, because being born out of wedlock significantly increases the chances of ending up on welfare. At the same time, up to two million couples waiting to adopt frequently find themselves hamstrung by government agencies and government practices.

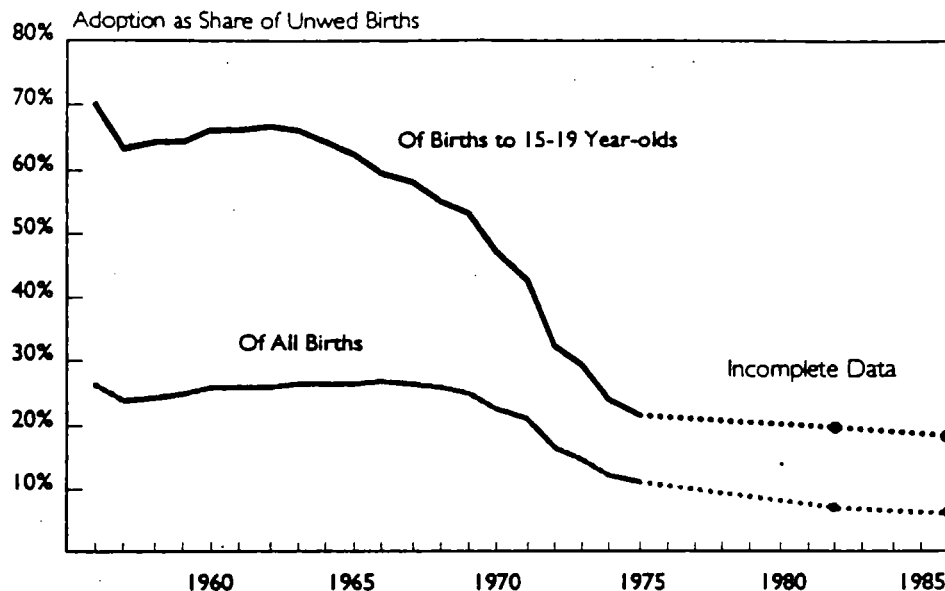
THE NEED FOR ADOPTION

Over the past 25 years there has been a dramatic increase in the numbers of children born out of wedlock, children being raised by single parents, families on welfare, and children entering the foster care system because of abuse and neglect. Family disintegration is widespread. There also has been a sharp decrease in the number of children being

**PHOTOCOPY
PRESERVATION**

Chart 3

Adoptions Are Decreasing: Especially for Women Under 20



adopted, with formal adoptions dropping by almost 50 percent: from 89,000 in 1970 to a fairly constant 50,000 annually throughout the 1980s and into the 1990s.³

The National Council for Adoption estimates that of the 50,000 children adopted annually, 25,000 are healthy children under age two, 10,000 are healthy children over age two, and 15,000 are children with "special needs" (the social work term of art for children considered difficult to place because of their age, physical or mental condition, race or ethnicity, or need to be placed with siblings).⁴ About one-third of these adoptions are arranged by government-funded and government-managed public agencies, some by contract with private agencies. Another one-third are arranged by private, mostly nonprofit agencies, and the rest are contracted outside of agency auspices, mostly through lawyers in private practice. International adoptions accounted for an additional 8,000 adoptions during 1994.

Adoption fell out of favor among social workers during the 1970s, even as single parenthood and abortion became more widespread. Advocates of government-sponsored social programs argued that increases in welfare would make it possible for unmarried

³ This number does not include informal adoptions by relatives that frequently take place within families—something extended families have always done for other members in need.

⁴ However, the term often causes initial resistance or apprehension on the part of potential adopting parents, who may fear having enormous burdens placed upon them. Many experts complain of the unnecessary and inordinate use of the term by state workers, the consequence frequently being the loss of a home for the child.

mothers to rear children without the assistance of a father.⁵ Yet, as is evident from the skyrocketing foster care numbers⁶ and from the chronic problems associated with the absence of fathers, such as crime, poor school performance, poor health status, and low income,⁷ that view has turned out to be a tragic mistake. By contrast, children adopted by two parents are doing as well as their peers raised in their own intact families.⁸

PATTERNS OF PARENTAL NEGLECT

The rapid increase of illegitimacy and the staggering problems of children born out of wedlock and raised without fathers are well documented.⁹

☛ In 1991, 29.5 percent of all births and 68 percent of minority births were out of wedlock.¹⁰ In 1970, 10.7 percent of all children and 37.6 percent of minority children were born to unmarried mothers.¹¹

☛ In 1986, 66 percent of unintended pregnancies ended in abortion and 33 percent ended with a woman choosing to be a single parent. Only 1 percent ended in adoption.¹²

☛ In 1992, 659,000 children were in state-sponsored foster care and institutional care for all or part of the year. On any given day, half a million American children live in government-sponsored substitute care.¹³

☛ In 1982, 7,100 infants were in substitute care outside their homes; in 1988, there were over 17,000.

☛ In 1991, 2,000 children died from abuse or neglect. Some were murdered. Between 30-50 percent of children killed by their parents or caretakers were known to child protective services before their murders took place.¹⁴

There has been a sharp increase in the number of infants abandoned by their frequently drug-addicted mothers. According to the Department of Health and Human Services (HHS), 12,000 infants were abandoned in 1991.¹⁵ In response to this crisis, there has been a proliferation of "boarder baby"¹⁶ homes to care for these children until their par-

5 Robert Rector, "Combating Family Disintegration, Crime, and Dependence: Welfare Reform and Beyond," Heritage Foundation *Backgrounders* No. 983, March 17, 1995.

6 These numbers rose from 262,000 in 1982 to 406,000 in 1990. American Public Welfare Association, *VCIS Research Notes*, November 1991. Further data from APWA show that the number rose to 444,000 in FY 1993.

7 Patrick F. Fagan, "Rising Illegitimacy: America's Social Catastrophe," Heritage Foundation *F.Y.I.* No. 19, June 29, 1994.

8 See section on "Benefits for Children," *infra*.

9 Fagan, "Rising Illegitimacy: America's Social Catastrophe."

10 *Ibid.*

11 U.S. Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States: 1994*, 114th Edition, 1994.

12 National Committee for Adoption, *Adoption Factbook*, June 1989.

13 Data from American Public Welfare Association series, *Voluntary Cooperative Information System (VCIS) Research Notes*.

14 *Ibid.*

15 Report to Congress, "National Estimate on the Number of Boarder Babies, the Cost of Their Care, and the Number of Abandoned Babies," DHHS/ASPE, August 1993, p. ii; hereinafter cited as DHHS/ASPE Report.

16 Boarder babies are babies left in the hospital by absconding mothers. Most frequently, these mothers are drug addicts with

ents can be located and rehabilitated. A 1993 General Accounting Office report showed that 10,000 infants were being boarded in hospitals for no medical reason. Less than 40 percent of the boarder babies—and none of the abandoned babies—were expected to leave in the care of their parents.

The average total cost of caring for these babies in hospital after their medical treatment is almost \$13,000.¹⁷ Nonetheless, only 2.5 percent of the boarder babies and 6 percent of the abandoned infants were expected to go into adoptive placements.¹⁸ The vast majority of these children will spend years in and out of the foster care system while the biological mother attempts to get her life together.¹⁹

Federal efforts to deal with this have been small and swamped by the size of the problem.²⁰ When Representative Harris Fawell (R-IL) introduced the At-Birth Abandoned Infants Act (H.R. 2936) last year to help move abandoned babies out of the system and into permanent adoptive homes, the child welfare establishment lobbied against it, arguing that creating a two-tiered system—a fast track for new-born abandoned babies and a slower, less responsive one for older children—was unfair.²¹ The bill was not enacted.

WHY ADOPTION SHOULD BE ENCOURAGED

Benefits for Children

Adopted children do as well as or better than their non-adopted counterparts, according to a 1994 study by the Search Institute, a Minneapolis-based public policy research organization specializing in questions of concern to states and cities.²² This study, the largest examination of adopted adolescents yet undertaken, concludes that:

- ✓ Teens who were adopted at birth are more likely than children born into intact families to live with two parents in a middle-class family.²³
- ✓ Adopted children score higher than their middle-class counterparts on indicators of school performance, social competency, optimism, and volunteerism.²⁴

multiple serious problems.

17 HHS/ASPE Report, p. ii.

18 "Report to Congress: National Estimates on the Number of Boarder Babies, the Cost of Their Care, and the Number of Abandoned Infants," U.S. General Accounting Office, August 1993; hereinafter cited as GAO Report.

19 Most boarder babies are cases of neglect of a severity which easily would justify termination of the parental rights of the mother. However, "family preservation" guidelines (as opposed to the best interests of the child) lead to prolonged and frequently futile efforts at maternal reform.

20 GAO Report, *op. cit.*

21 The opponents, the Child Welfare League of America and the American Public Welfare Association, also argued that the child's first right is to his biological family, not to care and nurturance, and that family preservation services must first be attempted with the mother—even if she had abandoned her baby.

22 Peter L. Benson, Anu R. Shorma, and Eugene C. Roehlkepartain, *Growing Up Adopted—A Portrait of Adolescents and Their Families* (Minneapolis: Search Institute, June 1994).

23 This finding illustrates the power of early adoption and the need to reform agency practices which keep children in prolonged foster care during their early infancy, when they are highly adoptable.

24 Benson *et al.*, *Growing Up Adopted*.

- ✓ Adopted adolescents generally are less depressed than children of single parents and less involved in alcohol abuse, vandalism, group fighting, police trouble, weapon use, and theft.²⁵
- ✓ Adopted adolescents score higher than children of single parents on self-esteem, confidence in their own judgment, self-directedness, positive view of others, and feelings of security within their families.²⁶
- ✓ On health measures, adopted children and children of intact families share similarly high scores, and both those groups score significantly higher than children raised by single parents.²⁷
- ✓ Adopted children do well at school. In 1981, only 7 percent of children adopted in infancy repeated a grade, while 12 percent of children living with both biological parents repeated a grade.²⁸
- ✓ Compared with the general child population, children placed with adoptive couples are better off economically. Their parents are better educated and older than the parents of other children.²⁹
- ✓ Adoptive parents are less likely to divorce.³⁰

Virtually all of these findings have been replicated by Nicholas Zill, Vice President and Director of Child and Family Studies at Westat Research Corporation of Maryland, in his analysis of data from the federal government's 1988 National Health Interview Survey on Child Health.³¹ Results from the survey were compared across four groups: adopted children, children of unmarried mothers being raised by the mother, children of intact families, and children being raised by their grandparents. The data indicated that adopted children:

25 *Ibid.*

26 Kathleen S. Marquis and Richard A. Detweiler, "Does Adoption Mean Different? An Attributional Analysis," *Journal of Personality and Social Psychology*, Vol. 48, No. 4 (1985), pp. 1054-1066. An interesting anomaly has emerged from an analysis of adoption studies. Clinical studies traditionally have shown adopted adolescents to be overrepresented in psychiatric settings. The same occurred here, but these adolescents were found not to have emotional or psychological problems at these rates. Adopted adults are less likely to receive treatment than the general population. This seeming contradiction occurs because adoptive parents are more likely to refer their adopted children for possible treatment. Of all adopted children referred by parents for clinical treatment, only 27 percent had a clinical diagnosis. The remainder—almost 75 percent—received counseling for normal adolescent issues.

27 Nicholas Zill, "Behavior and Learning Problems Among Adopted Children: Findings from a U.S. National Survey of Child Health," Child Trends, Inc., Washington, D.C.; paper presented to the Society for Research in Child Development, April 27, 1985.

28 Nicholas Zill, "Adopted Children in the United States: A Profile Based on a National Survey of Child Health," testimony before the House Ways and Means Subcommittee on Human Resources, May 1995.

29 Carole H. Depp, "Characteristics of Biological, Step and Adopted Children," *Journal of Marriage and the Family*, February 1965. This early finding is replicated in the Search Institute study.

30 National Committee for Adoption, *Unmarried Parents Today*, June 25, 1985.

31 See Nicholas Zill, Mary Jo Cairo, and Barbara Bloom, "Health of Our Nation's Children," *Vital and Health Statistics*, Series 10, No. 191, U.S. Public Health Service, 1994, and Zill, "Adopted Children in the United States."

- ✓ Enjoy a quality of home environment superior to all the other groups;³²
- ✓ Have superior access to health care compared to all the other groups;³³
- ✓ Enjoy health similar to that of children of intact families and superior to that of the other two groups; and
- ✓ Do better in educational attainment than single-parent children and children raised by grandparents.³⁴

When compared with those adopted later, born outside of marriage and raised by the single mother, or raised in an intact family, children who are adopted in infancy:

- ✓ Repeat grades less often than any other group;
- ✓ See mental health professionals less than all other groups, except children of intact families;
- ✓ Have better health status than all other groups;
- ✓ Have a better standing in their school classes than all other groups, except children raised in intact families; and
- ✓ Have fewer behavior problems than all other groups, except children raised in intact families.

Benefits for Mothers Who Give Up Children for Adoption

Significantly, teenage mothers who choose adoption also do better than mothers who choose to be single parents.

- ✓ They have higher educational aspirations, are more likely to finish school, and less likely to live in poverty and receive public assistance than mothers who keep their children.
- ✓ They delay marriage longer and are more likely to marry eventually.
- ✓ They are more likely to be employed 12 months after the birth and less likely to repeat out-of-wedlock pregnancy.
- ✓ They are no more likely to suffer negative psychological consequences, such as depression, than are mothers who rear children as single parents.³⁵

32 As measured by regular bedtime, use of seatbelts, and absence of an adult smoker in the household.

33 As measured by insurance coverage, dental visits, and regular provider of sick care.

34 As measured by rank in class, repeating a grade, or being suspended.

35 Steven D. McLaughlin, Diane L. Manninen, and Linda D. Wings, "Do Adolescents Who Relinquish Their Children Fare Better or Worse Than Those Who Raise Them?" *Family Planning Perspectives*, Alan Guttmacher Institute, January-February 1988.

All the goals of liberal government programs like job training, supplemental education, and family planning are attained with greater ease, and at lower cost, through adoption.³⁶

HOW MANY POTENTIAL PARENTS ARE THERE?

Although growing numbers of children need adoption, there are more than enough families to meet the demand. The National Council for Adoption estimates that at least one million infertile couples and an additional one million fertile couples would like to adopt.³⁷

Couples who want to adopt are not looking just for healthy, Caucasian infants, despite assumptions to the contrary. The National Down's Syndrome Adoption Exchange reports a waiting list of over 100 couples who would like to adopt a child with Down's syndrome—more than enough to accommodate parents who want Down's children given up for adoption. Nor is it difficult to find families for children with spina bifida and children who are HIV positive. For example, the National Council for Adoption is identifying children who will be orphaned when their parents die of AIDS, so that appropriate plans can be made before the parents' death. The response by individuals and families willing to adopt such children has been overwhelming.

Americans are also willing to help with children from overseas, especially because of the anti-adoption bias in the United States. When the communist regime in Romania fell, ABC-TV's "20/20" reported that thousands of children were warehoused in government orphanages. Pictures showed many children with health and developmental problems. ABC received over 25,000 self-addressed, stamped envelopes from people who wanted more information, and within six months 2,000 Romanian children were adopted by Americans,³⁸ many of whom had not considered adoption until this need became known. This suggests that the pool of parents willing to adopt could be expanded significantly.

In 1993, over 56 percent of the 7,348 children from other countries adopted by American parents were over the age of one. Of these, 9 percent were between the ages of five and nine, and 5 percent were over the age of ten.³⁹ In addition, many of these foreign-born children have physical and emotional problems at the time of their adoption.⁴⁰

Despite the evident readiness and desire to adopt, many families report a lack of support or encouragement from the social services establishment. They report such things as unanswered phone calls, inadequate networking with other agencies which may have children ready for adoption, a disinclination to identify children with needs that corre-

³⁶ See Patrick F. Fagan, "Liberal Welfare Programs: What the Data Show on Programs for Teenage Mothers," Heritage Foundation *Background* No. 1031, March 31, 1995.

³⁷ National Committee for Adoption, *Unmarried Parents Today*.

³⁸ U.S. Immigration and Naturalization Service data from National Council for Adoption, 1994.

³⁹ *Ibid.*

⁴⁰ There is strong evidence in U.S.-foreign adoption patterns that Americans do not seek Caucasian children only. Of all the foreign adoptions in 1987 (total: 10,097) 122 were from Europe; 7,614 were from Asia; 22 were from Africa; and 1,363 were from South America. The rest were from Canada, Mexico, and the Caribbean. Non-white couples in the United States have a pattern of adopting at a higher rate than do white couples. See section on "Black Families and Adoption," *infra*.

spond to the gifts of the family, and a general lack of support to bring couples successfully through the adoption process.⁴¹

THE BARRIERS TO ADOPTION

Although adoption meets the interests of the needy child better than any other option, Elizabeth Bartholet of Harvard Law School concludes that "our adoption system has failed to live up to even its own limited vision.... Laws and policies that are supposed to protect children have created barriers to adoption that function effectively to prevent these children from getting the kind of protection they most need 'a loving, nurturing and permanent home.'"⁴²

The legal system often resolves cases in ways that trouble many Americans. In two widely publicized recent cases, for example, children were wrested from their adoptive parents on the basis of biological ties. Baby Jessica was given to her biological father, who had failed to support two previous children, and Baby Richard was given to his biological father, with whom he had never lived, instead of being allowed to remain with the adoptive family which had nurtured him from birth for three years. In both cases, the overriding "biological ties" of the fathers prevailed over the needs of their children.

Several barriers make it very difficult for many families to adopt children.

BARRIER #1: Anti-Adoption Bias in Pregnancy Counseling

Only 1 percent of women who experience an "unwanted pregnancy" choose adoption for their children.⁴³ A University of Illinois study explains some of the causes:

- ✗ Some 40 percent of individuals in a variety of settings (health, family planning, social services, and adoption agencies) who identify themselves as "pregnancy counselors" do not even raise the issue of adoption with pregnant clients.
- ✗ An additional 40 percent provide inaccurate or incomplete information to clients.
- ✗ By contrast, 38 percent of the clients whose counselors offered adoption went on to choose adoption.⁴⁴

Congress's efforts to require adoption information and counseling in one federally funded program providing services to pregnant women have met with resistance from family planning professionals. For instance, the Adolescent Family Life Act⁴⁵ was

⁴¹ Personal communication from Mary Beth Styles, Vice President for Professional Practice, National Council for Adoption, summing up the complaints of parents to NCFA.

⁴² Elizabeth Bartholet, *Family Bonds: Adoption and the Politics of Parenting* (Boston: Houghton Mifflin, 1993); quoted in Judith D. Vincent, "Reforming Adoption: Putting Children First," Center of the American Experiment, Minneapolis, March 1995, p. 2.

⁴³ National Committee for Adoption, *Unmarried Parents Today*, p. 66.

⁴⁴ Edmund V. Mech, paper on "Orientations of Pregnancy Counselors Toward Adoption," University of Illinois, 1984.

⁴⁵ Part of the Omnibus Budget Reconciliation Act, P.L. 97-35, August 13, 1981.

passed in the early 1980s to provide a modest (\$7.8 million), more "pro-life," adoption-friendly alternative to the pregnancy counseling provided by established Title X and Title XIX family planning services (typically over \$300 million per year). The bias among professionals against adoption can be seen in the evaluation of the program's effectiveness. Some 7 percent of the grantees violated the most basic terms of their grants by not providing any information on adoption to their clients. Most grantees failed to provide either adequate adoption information or counseling.⁴⁶

BARRIER #2: Misuse of the Foster Care System

In 1980, Congress enacted P.L. 96-272, the Adoption Assistance and Child Welfare Act. This legislation sought to provide permanent homes for children at risk of abuse and neglect by establishing a hierarchy of services for these children and for their families. In order of priority, these services were:

- ① Family preservation;
- ② Short-term foster care with a goal of family reunification; and
- ③ Long-term foster care or adoption.

This legislation requires that each child's situation be reviewed every six months. Within 18 months of opening every case, a permanent plan for the child's future must be in place. This placement plan embodies a decision by the child welfare agency as to whether the child will be returned to the family or placed for adoption. Such decisions and plans must be in place before the work of clearing the child for adoption can be undertaken. Only after both steps have been taken can the search for adoptive parents begin.

During the 1980s, these permanency planning guidelines evolved into the operating principle of "family preservation"—keeping families intact through early, intense, comprehensive social services. The goal was to keep families united and thus avoid the high costs of foster care.

Because of their own high costs, however, family preservation services cannot be sustained for long periods; and because of high demand, caseworkers move quickly to take care of the next family in crisis. This approach did succeed in stopping the removal of children from the home, but not necessarily in preserving them from further abuse.⁴⁷ In fact, there is evidence that children fare worse under these new practices. In New York City alone, during the 12 months of 1992, 21 children were killed by a parent or mother's boyfriend after the Child Welfare Administration had intervened.⁴⁸

⁴⁶ "Why Won't the Public Health Service Talk About Adoption?" *National Adoption Reports*, National Council for Adoption, October 1994.

⁴⁷ Peter H. Rossi, *Evaluating Family Preservation Programs*, report to the Edna McConnell Clark Foundation, Social and Demographic Research Institute, University of Massachusetts, September 1990; Michael S. Wald, "Family Preservation: Are We Moving Too Fast?" in *Public Welfare* (Washington, D.C.: American Public Welfare Association, Summer 1988).

⁴⁸ Rita Kramer, "In Foster Care, Children Come Last," *City Journal*, Autumn 1994, pp. 63-70.

A study by John Schuerman and his colleagues at the University of Chicago found that the "Family First" program did not realize even its central goal: preventing the removal of children.⁴⁹ Neither did it protect children from further abuse. There is evidence that some families continue to abuse their children even during the period of intensive state intervention.⁵⁰ By contrast, there is strong evidence that children do better when left in foster care than when they are returned to abusive families.⁵¹ This evidence leads to a simple and commonsense conclusion: children need a permanent home to which they can belong. For children at serious risk, an adoptive home is their best chance for real permanence.

Some child advocates challenge the principle of applying the "family preservation" approach in all cases. At a 1994 conference sponsored by the National Council for Adoption at Boys Town, Nebraska, Dr. Richard Gelles of the University of Rhode Island, a pre-eminent child abuse researcher and an early and optimistic supporter of family preservation programs, presented the following paraphrased views on these practices in light of recent evaluation data:

There are a now a number of studies of children who were returned home only to be abused again or even killed. These studies show dramatically that some abusive parents cannot be rehabilitated.⁵² In these cases the appropriate care of such a child is to terminate the parents' rights as quickly as possible and place the child with a permanent caring adoptive family.

The Boys Town conference highlighted the central problem of family preservation services. The first logical step should be to assess whether the child should be removed immediately and whether the parents are likely to benefit from support services. Instead, family preservation services are assumed to be the best first treatment. Though these services are activated because of abuse to the child—sometimes very severe abuse—they must fail before the child can be protected from the abusing family.

The foster care system is the aggregate network of parents who work for state and local social service agencies by taking abandoned, abused, or neglected children into their homes. They receive a set amount each month with which to feed, clothe, and nurture these children. Foster parents try to function as substitute parents. Prudently, they are admonished not to expect that placement will be permanent. However, from among the couples who take on this work come many who would like to adopt, particularly as they get to know these children and their lack of prospects for a happy and safe life in their families of origin.

49 John Schuerman, Tina Rzepnicki, and Julia Little, *Putting Families First* (New York: Aldine DeGruyter, 1994).

50 Mary Elizabeth Seader, "Do Services to Preserve the Family Place Children at Unnecessary Risk?" in Eileen Gambrill and Theodore J. Stein, eds., *Controversial Issues in Child Welfare* (New York: Allyn and Bacon, 1994).

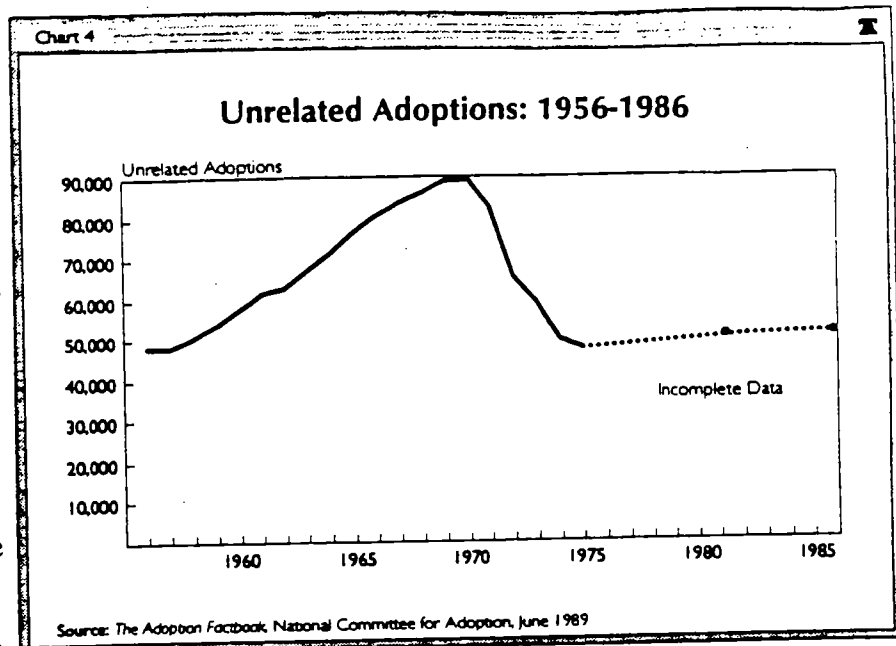
51 Carol Statuto Bevan, "In Search of a New Child Welfare Paradigm"; unpublished paper presented at Boys Town conference on Child Protection: Old Problem, New Paradigm, May 20-22, 1994.

52 Richard J. Gelles, "The Doctrine of Family Reunification: Child Protection or Risk?"; paper presented at Boys Town conference on Child Protection: Old Problem, New Paradigm, May 20-22, 1994.

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Government funding reinforces an anti-adoption bias by supporting "family preservation" programs with free technical assistance and generous grants while providing only restricted support for adoption. The National Council for Adoption and the Institute for Justice report that numerous families, including foster fami-

lies, have had their attempts to adopt waiting children rebuffed by the social service agencies for whom they work.⁵³ Conna Craig of the Institute for Children in Boston reports receiving hundreds of letters from foster parents who are willing and able to adopt their foster children, some of whom have been eligible for years.



BARRIER #3: Overload and Confusion of Social Service Roles

According to Douglas J. Besharov of the American Enterprise Institute, the rising incidence of reported child abuse keeps local child welfare agencies extremely busy on policing activities, diverting time and resources from adoption.⁵⁴ Often the same staff must investigate abuse reports, provide family preservation services, file for the termination of parental rights, and recruit and prepare adoptive families.

The child welfare system typically does not separate the responsibility for terminating parental rights of parents who continue to abuse and neglect their children from the responsibility to help those parents who can be helped. Deaths of children result, as in the cases of the 21 who died in New York in 1992. By contrast, in Arizona and Oregon, separate professional units are used to make initial determinations and to justify the necessary court proceedings. Professionals are not trapped in the role confusion caused by simultaneous demands to reunite every family while also protecting the child.

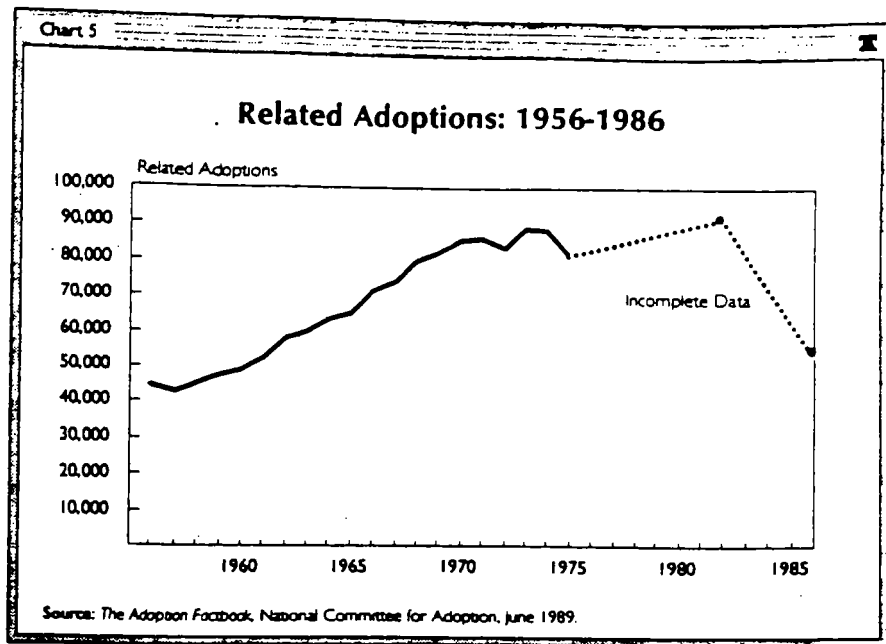
If units like those in Arizona and Oregon were in general use, a number of benefits would result:

- ⁵³ Donna G. Matias, "Separate But Not Equal: Striking Down State-Sanctioned Barriers to Interracial Adoption," Institute for Justice, Washington, D.C., April 1995.
- ⁵⁴ Douglas J. Besharov with Lisa A. Laumann, "Don't Call It Child Abuse If It's Really Poverty," American Enterprise Institute, Washington, D.C.; paper prepared for conference on Social Policies for Children, Woodrow Wilson School of Public and International Affairs, Princeton, New Jersey, May 1994.

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✓ Courts could separate those children more decisively and quickly from parents unlikely to reform or benefit from family preservation services.

✓ Children in danger of severe abuse would be separated more quickly and expertly from their families and made available for adoption.



✓ Social workers involved in helping the more tractable parents would be free to pursue that work with much less likelihood of endangering the child.

✓ Local government agencies could turn to the adoption services of nonprofit agencies much more quickly and frequently. Private agencies do not have the immense burden of child protective services and related policing requirements that public agencies have. Their mission is to recruit and prepare adoptive families, and they tend to have great expertise in this work.

BARRIER #4: Unsatisfactory Protection of Confidentiality

State adoption laws generally guarantee the confidentiality of the identity of the mother, the inviolability of the internal intimacy and harmony of the adoptive family, and the peaceful development of the adopted child.

In adoption law and philosophy, there has arisen a view which parallels the modern revisionist view of marriage and parenthood embodied in "no-fault" divorce. New relationships between parent and child are imagined, and a new type of contract is forged between parents. Open adoption is akin to no-fault divorce, and the "birth parents" take on the role of the visiting parent who has not yielded up all his rights to the child, particularly rights of visitation and vacations together. The adoptive parents are bound not just to their adopted child, but also to the birth parents and must facilitate the continuing relationship between the child and his birth parents. This form of open adoption exists in Oregon from birth and in Indiana for children over two years of age.

Open adoption provides no seal of confidentiality regarding the identity of the birth parents, the adopting parents, and the child. It essentially blends birth families with adopting families, directly undermining the creation of a permanent new family for a child. The professional literature shows a frequent confusion of roles when the birth family continues a relationship with the child. This also interferes with parent and child

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bonding⁵⁵ in the adoptive family and inhibits the birth parents' grieving process.⁵⁶ There are parallel experiences and research findings with respect to divorce and the increased risks of being raised in blended families.⁵⁷ Confidentiality, especially in infant adoptions, helps minimize these risks.

Oregon is an example of a state in which open adoption allows birth parents to take adoptive parents to court to uphold visitation agreements. This policy undermines the rights of adoptive parents to make parenting decisions. It also changes the nature and dynamics of a close, intact, inviolably intimate adoptive family, exposing it to the disruptions, conflicts, and anxieties characteristic of divorced and blended families. The professional literature on childhood emotional and behavioral development shows that children of blended families do less well than children of single parents and intact families.⁵⁸ If successful, the growing push for open adoption⁵⁹ could cause similar difficulties for adopted children, undermining the generally strong mental health reported by the Search Institute and Nicholas Zill.⁶⁰

Proponents of open adoption even recommend abolishing adoption in favor of "guardianship," which does not offer the same permanency of family for the child.⁶¹ Like any other government policy which treats the adoptive families differently from intact families, this undermines the very essence of adoption.

Understandably, many children become interested in knowing about their birth parents as they reach early adulthood. Their desire may be fulfilled if everyone involved is prepared to cooperate in lifting the veil of confidentiality. Most states try to maintain confidentiality if there is not full agreement among all concerned. Others do not. Two, Alaska and Kansas, will release the original birth certificate with the names of the biological parents to the adopted person after the age of eighteen, regardless of the birth mother's desires.⁶²

Proponents of opening adoption records seek legislation at the federal level. Senator Carl Levin (D-MI) has introduced various versions of a "national reunion registry" to help connect birth parents with persons who are adopted. The National Council for

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- 55 Kathleen Silber and Patricia Martinez Dörner, *Children of Open Adoption* (San Antonio, Tex.: Corona Publishing Company, 1989); Marianne Berry, "The Effects of Open Adoption on Biological and Adoptive Parents and the Children: The Arguments and the Evidence," *Child Welfare*, Vol. 70, No. 6 (November-December 1990).
- 56 Mary Elizabeth Seader and William L. Pierce, "Should Parents Who Give Up Their Children for Adoption Continue to Have Access to Their Children?" in Mary Ann Mason and Eileen Gambrill, eds., *Debating Children's Lives: Controversies on Children and Adolescents* (Thousand Oaks, Cal: Sage Publications, 1994).
- 57 Blended families are composed of children of two former marriages or unions. The rate of family conflict is higher, and the children have higher rates of emotional and behavioral problems, in blended families than in original intact families.
- 58 Nicholas Zill and Charlotte A. Schoenborn, "Developmental, Learning, and Emotional Problems: Health of Our Nation's Children, United States 1988," *Advanced Data from Vital and Health Statistics of the National Center for Health Statistics*, No. 190, November 1990.
- 59 The major proponents of open adoption are the American Adoption Congress and Concerned United Birthparents.
- 60 Benson *et al.*, *Growing Up Adopted*, and Zill, "Adopted Children in the United States."
- 61 Reuben Pannor and Annette Baran, "It's Time for a Sweeping Change," *American Adoption Congress Newsletter*, Summer 1990; Carole Anderson, "Response to 'It's Time for a Sweeping Change'," *CUB Communicator*, Concerned United Birthparents, Des Moines, Iowa, September 1990.
- 62 National Council for Adoption, *On the Confidentiality of Adoption Records*, 1992.

Adoption and many of its affiliated private adoption agencies have challenged the vagueness of the legislative proposals which do not assure confidentiality. They also have questioned the need to federalize a state issue.

BARRIER #5: Unknown, Uninvolved, or Unmarried Fathers

Another major barrier for unmarried women considering adoption for their children is the need to obtain the consent of uninvolved fathers. Fortunately the Supreme Court, in a series of opinions,⁶³ has clarified and restricted the rights of uninvolved, unmarried fathers. According to current federal law, these rights correspond to the effort the father has made to establish a relationship with his child. The unmarried father who is unknown, is uninvolved, or has otherwise demonstrated no responsibility or interest in the child may not be entitled to the same consideration as an involved and responsible unmarried father. Federal courts have ruled consistently⁶⁴ that ignorance of a pregnancy is no excuse for uninvolved, because the father was present at conception and could have followed through to assure adequate care for the child.

A growing trend in state legislatures, upheld by the Supreme Court in *Lehr v. Robertson*,⁶⁵ is the establishment of father registries which make the father responsible for asserting his parental rights. The registry usually requires the father to file a paternity action within 30 days of the child's birth. This will result in his being notified of a pending adoption. He then will have an opportunity to demonstrate that he has tried to establish a relationship with the child and to take responsibility for the child's care. If he fails to meet any of these requirements, he forfeits his rights to contest the adoption of the child, and the adoption can proceed. While many conservatives think an absent unmarried father should never be an obstacle to adoption, this procedure at least frees the mothers to place children without registered fathers for adoption.

The House welfare bill requires paternity establishment at birth for all fathers. This is a major step in the right direction. Fears that efforts to locate unknown, unmarried fathers will slow down, and possibly stop, adoption are unfounded. If the mother is not seeking AFDC support (and she will not if she is placing her child for adoption), she will not need to identify the father. Simultaneously, the putative father registry protects the due process rights of all fathers. Those who do not register, however, cannot benefit from the protection it would have given them.

BARRIER #6: Race of the Child and Adoptive Parents

Two forms of racial discrimination take place within adoption: against adoptive parents and against children waiting to be adopted. Potential black parents lose the chance to give their love to needy children of their own race. Black children in foster care are deprived of new parents and a stronger foundation in life, in addition to being exposed to the risks of retarded social and intellectual development. Both forms of discrimina-

63 *Stanley v. State of Illinois*, 405 U.S. 645 (1972); *Caban v. Mohammed*, 447 U.S. 380 (1979); and *Lehr v. Robertson*, 463 U.S. 248 (1983).

64 National Council for Adoption, "Putative Fathers' Rights," 1992.

65 *Lehr v. Robertson*, 463 U.S. 248 (1983).

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tion must be eliminated. Fortunately, the means to accomplish this already exist within the private sector. There is no need for coercive race-matching legislation.

THE SPECIAL PLIGHT OF BLACK CHILDREN

There are more black children waiting in foster care than there are prescreened black families ready to adopt them. With the need for permanent adoptive homes growing more acute and the exit rate from foster care slowing continually, the likelihood of multiple placements for black children increases.⁶⁶ Indeed, some 24 percent of the children in foster care today have been in three or four different homes.⁶⁷ According to Ira Schwartz of the University of Michigan, 53 percent of all children in Michigan who entered the foster care system as newborns are still in foster care at age four.⁶⁸ A number of regional studies confirm this trend and demonstrate that black children typically wait two to three years longer than white children for adoptive homes.⁶⁹

The length of stay in foster care is very important. The longer the newborn stays in foster care, the more at risk he is of approaching the "difficult to adopt" age and the greater the problems associated with long-term foster care become. If half the children who arrive in foster care at birth are still in it at age four, the system is not serving their needs.

This statistic highlights the need for termination units—specialized units of social workers who work with the courts to determine whether the parental rights of an abusing or neglectful parent should be withdrawn so that the child may be placed for adoption. If the "best interest of the child" principle is used, this decision will be made quickly. If the "family preservation" principle is used, the decision will be delayed again and again, often until repeated neglect convinces the authorities that parental rights must be re-

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- 66 "Actual numbers and percentages of substitute care exits among minority children did rise significantly during the 1980s, but any gains in the numbers of exits among black and Hispanic children were totally nullified by continued increases in the total numbers of these minority children in the substitute care population during the same period....The fact that the exit numbers of minority children are smaller than those of white children will result in additional increases in the proportion of minority children in care. If current trends continue, minority children will become the clear majority in the nation's substitute care population in the next few years. There already are more minority children than white children in the substitute care systems of several large urban states today. Social policy implications of minority children becoming the numerical majority in the U.S. substitute care population are profound and complex and should be seriously examined." From Toshio Tatara, "A Comparison of Child Substitute Care Exit Rates Among Three Different Racial/Ethnic Groups in 12 States, FY 84 To FY 90," *VCIS Research Notes* No. 10, American Public Welfare Association, Washington, D.C., June 1994.
- 67 Data supplied by the David Thomas Foundation for Adoption, P.O. Box 7164, Dublin, Ohio 43017.
- 68 Ira Schwartz, Robert M. Ortega, and Gideon Fishman, "Michigan Infants in the Child Welfare System," report from the University of Michigan Center for the Study of Youth Policy; data from Department of Social Services CSMIS Data Event History File 12 89.
- 69 Richard P. Barth, Mark Courtney, and Barbara Needel, "The Odds of Adoption vs. Remaining in Long-Term Foster Care"; paper presented at the Second Annual Child Welfare Conference, Washington, D.C., March 17, 1994. See also S. Kossoudji, "Race and Adoption in Michigan," in D. Mont and R. Avery, eds., *Public Agenda Adoption Policy* (Westport, Conn.: Greenwood Press, 1994), and D. Mont, "Race and Gender Differences in the Adoption of Special Needs Children," unpublished manuscript (Ithaca, N.Y.: Department of Consumer Economics and Housing, Cornell University, April 1993), both quoted in Barth *et al.*, "The Odds of Adoption vs. Remaining in Long-Term Foster Care."

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moved. At this point, in addition to having suffered even more, the child is older and more difficult to place.

Given these figures, public welfare agencies are a major source of neglect of young black children. The bias against adopting early, when the child is most adoptable, feeds the foster care system and ensures a larger clientele for public agencies. The present system of financing foster care and not financing adoptions perversely rewards this form of government neglect.

Black Families and Adoption

There is evidence that blacks adopt at a much higher rate than whites if one controls for family structure, income, and age of parents.⁷⁰ A 1983 Department of Health and Human Services study⁷¹ put these comparable rates at:

- ◆ 7 adoptions per 10,000 black families for all black families;
- ◆ 2 adoptions per 10,000 white families for all white families; and
- ◆ 2 adoptions per 10,000 Hispanic families for all Hispanic families.

Controlling for age of parents (below 55), family income (above poverty level), and family structure (intact families), the rates change to:

- ◆ 18 adoptions per 10,000 black families within the range;
- ◆ 4 adoptions per 10,000 white families within the range; and
- ◆ 3 adoptions per 10,000 Hispanic families within the range.

These figures convey the reality of much higher adoption rates among blacks than among whites or Hispanics for children in public welfare agencies who are available for adoption.⁷²

To meet the needs of all children within their own racial communities by placing them in couple-headed families above poverty, the same study suggests that the response rate among black families would have to be far higher than it is. It would need to approach 44 per 10,000 families for blacks, compared with 6 per 10,000 families for whites and 6 per 10,000 families for Hispanics. This would require an enormous increase in the rates of adoption by blacks and Hispanics. Richard Barth of the School of Social Welfare at the University of California at Berkeley sums up the conclusions to which these data lead:

The growth of African-American adoptions have increased by 92% in the last 5 years and Hispanic adoptions by 80%. The growth of African American adoptions would have to grow four times faster than that during the next five years in order to give African American children parity of

70 There are no ongoing survey data which sample for adoption rates. This makes the estimation of incidence and rates spotty over time and more difficult to estimate accurately.

71 Charles P. Gershenson, "Community Response to Children Free for Adoption," *Child Welfare Research Notes* No. 3, Children's Bureau, Administration for Children, Youth and Families, March 1984.

72 However, if blacks are serving at a rate much higher than their presence in the nation, then the issue of bias against blacks either does not hold up or, at a minimum, is more complex.

access to adoption. For Hispanic children, the growth rate would have to double for their opportunity to be adopted to reach parity with Caucasian children.⁷³

To achieve these levels of adoption will require a great community effort by black and Hispanic people.

As well-run private agencies demonstrate, large pools of adoptive parents can be developed over time. Even pools of parents for "harder to place children" can be developed when the effort is made by a committed organization. For instance, Down's syndrome children are adopted quite quickly because there is a network of screened parents in place and ready to adopt. Similarly, a pool of parents ready to adopt HIV-positive babies has been developed by the National Council for Adoption.

In a 1980 study of black parents, sociology professor Robert Hill of the Institute for Urban Research at Morgan State University estimated that three million black households are interested in adopting children. This translates into one hundred black families for every black child in foster care waiting for adoption.⁷⁴ Given this potential, a pool of pre-screened adoptive parents big enough to take care of the needs of black children represents an achievable goal.

The private sector can best develop this pool because private organizations are motivated to do so. Building pools of parents is not the strong suit of public agencies.⁷⁵ Some private organizations in the black community have achieved remarkable results. Recently, for instance, in just one year, Detroit's Homes for Black Children placed 132 children in black homes—more than all the other 13 child welfare agencies in the city.⁷⁶ To increase the rate of adoption within black families, the leadership of the black community should commit itself strongly to using private organizations.

Although the emphasis should be on making it easier for black families to adopt, blocking transracial adoptions just because the children are black and the parents are white discriminates against many needy black children because of race. Moreover, it does not increase the rate of in-race adoption. California, despite a law requiring a 90-day search for a same-race family before a child can be adopted across racial lines, still has twice as many black children as white children waiting for adoption, often for long periods.⁷⁷

The Institute for Justice recently filed suit on behalf of a white foster couple who had cared for a black child since birth. When the child became eligible, they sought to adopt him but were blocked by the public welfare agency because they were not black. Even when black parents were not found, the agency persisted in blocking this adoption. No one can argue that this was in the best interest of the child.⁷⁸ Similar racial discrimina-

73 Barth *et al.*, "The Odds of Adoption vs. Remaining in Long-Term Foster Care."

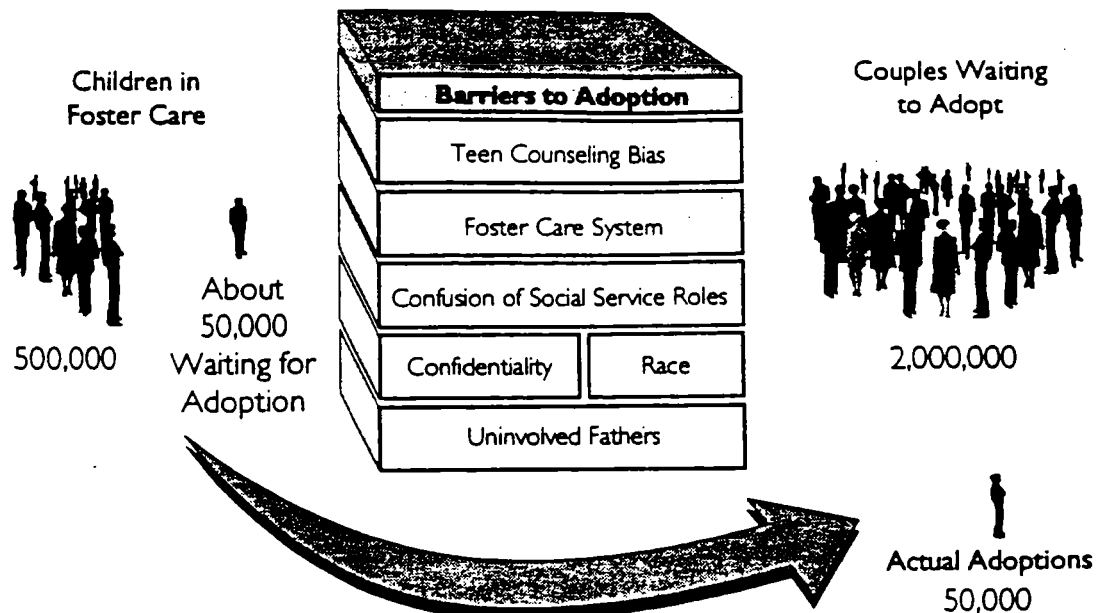
74 Robert B. Hill, *Research on the African-American Family* (Westport, Conn.: Auburn House, 1993).

75 According to Tony Oliver of Roots in College Park, Georgia, the state of Georgia has 127 counties and child welfare agencies, but only seven counties have adoption units.

76 See William Raspberry, "Why Won't Adoption Agencies Place Black Children?" *The Washington Post*, December 22, 1990, p. A15.

77 Richard Barth reported his findings at a meeting on transracial adoption sponsored by the Kellogg Foundation in Washington, D.C., in February 1994.

Barriers to Adoption: Both Children and Couples Must Wait



Sources: *The Adoption Factbook*, National Committee for Adoption, June 1989; NCFA Memos

tion prevented the adoption of a white child by a black couple who had fostered the child since birth.

In 1984, liberal black columnist Carl T. Rowan argued against the "abominable notion that race must be the dominant factor in deciding who can deliver loving care and protection to a child." Rowan equated the position of black social workers who support only in-race adoption with a 1954 statement by a segregationist Mississippi editor that "every child has the right to be educated among children and by teachers of the same racial background."⁷⁹ Furthermore, according to professor Rita Simon, sociologist at the American University and expert in transracial adoption, "The data in our studies and indeed in all the studies that have been done show that transracial adoptions serve the children's best interests."⁸⁰

Still, opposition to transracial adoption is strong. When former Senator Howard Metzenbaum (D-OH) steered S. 1224 through Congress in 1993, he did so to outlaw obstacles similar to the above restrictions that exist in most states. But the Clinton Administration, which supports race matching, succeeded in changing the legislation so that lack

⁷⁸ Press release, "Institute for Justice Challenges Barriers to Interracial Adoption," April 13, 1995.

⁷⁹ Carl T. Rowan, "Should Whites Adopt Blacks?" *The Washington Post*, July 13, 1984, p. A19; quoted in Rita J. Simon and Howard Alstein, *Transracial Adoptees and Their Families* (New York: Praeger, 1994), p. 7.

⁸⁰ Rita Simon, "Serving the Children's Best Interest," *Interrace Magazine*, August/September 1994, pp. 40-42.

of race matching could be used to deny or delay a placement.⁸¹ Instead of encouraging solutions, such as private adoption agencies that specialize in placing black children, the Administration's policy aggravates the problem.

The Bunning Amendment, now incorporated into the House-passed welfare bill, repeals the Clinton policy. Senator John McCain (R-AZ) has a similar amendment (S. 637) to the Senate version of the welfare reform bill. The Children's Defense Fund supported the Clinton Administration's approach,⁸² despite the evidence of researchers such as Rita Simon, who shows that transracial adoption does not damage the child emotionally or developmentally and that transracially adopted children do just as well as those adopted by parents of their own race.⁸³

Race matching can be achieved easily if there are enough prescreened adoptive parents. The difficulty lies not in the lack of parents but in the poor track record of public agencies in building a pool of black adoptive parents.

THE NEED FOR FEDERAL LEADERSHIP

A child's needs are best served, and his potential fostered most effectively, by the love and sense of belonging provided by a stable family environment. As in other areas of social concern, however, the government's ability to increase love and dedication is limited. This competence resides primarily with the family, the church, and the school. However, through their power to enact wiser laws and provide leadership, lawmakers at the federal level can affect the rate of adoption. They can expound upon its benefits for the child, for the mother who gave birth, and for the parents who adopt.

Adoption is one of those rare good solutions to many thorny problems. Political leaders should help the country realize that it is one of the most effective ways to alleviate the problems arising from illegitimacy, child abuse, and neglect.

Lawmakers also must challenge the leaders of other major institutions, especially church leaders, to talk about the goodness of adoption. Educational leaders, particularly in social studies areas, ought to be challenged to develop good materials on adoption. Health insurance leaders ought to be challenged as well, for adoption is a less costly solution to infertility than is fertility treatment, which averages about \$35,000 per course of treatment. Media leaders ought to harness their expertise in communications to promote adoption to the nation at large, instead of attacking it.⁸⁴

The more this is done, the more attractive adoption will be to growing numbers of families. America also needs to celebrate parents who adopt and parents who care for foster children—especially those who both foster *and* adopt. They show a double generosity.

81 Rita Kramer, "Adoption in Minority and White," *The Wall Street Journal*, October 24, 1994.

82 Marian Wright Edelman, letter to the editor, "We Want Adoption for All the Children," *The Wall Street Journal*, November 22, 1994, p. A-25.

83 Simon, "Serving the Children's Best Interest."

84 See Marvin Olasky, "The War on Adoption," *National Review*, June 7, 1993, pp. 38-44.

Adoption is a national resource that should be encouraged and expanded by government where possible. The federal government should undertake a public relations campaign, targeted to girls under the age of 18 who have conceived out of wedlock, on the benefits of adoption. In addition, Congress should:

- 1) **Enact a means-tested, fully refundable, inflation-adjusted tax credit of up to \$5,000 for non-recurring adoption expenses.**

The House-passed tax bill (H.R. 1215) provides a non-refundable tax credit of up to \$5,000 for adoption costs for those with incomes up to \$60,000, gradually phased out for those with incomes between \$60,000 and \$100,000.

Congress permits a tax deduction for the medical costs of fertility treatment (typically between \$35,000 and \$50,000 for testing, test tube conception, and deep freeze, development, and discard). The average revenue loss for such treatment is about \$8,000. Some corporate health plans, the costs of which are fully excludable from employees' taxable income, also cover fertility treatment. By contrast, the Treasury would gain financially from a one-time \$5,000 tax credit that encouraged parents to assume the total cost of caring for foster children—each of whom now costs taxpayers over \$13,000 each year.⁸⁵

This tax credit should be fully refundable (including against Social Security taxes) so that poorer parents who adopt a child receive the same level of support as those who earn more and have larger tax liabilities. The object is to encourage and support those who want to adopt. Being less generous with poorer parents (and more black parents are poor compared to white parents) is unwise because it reduces the incentive to adopt.

- 2) **Hold hearings on the Clinton Administration's blocking of an effective drug testing and treatment program for cocaine-addicted pregnant mothers. If necessary, pass legislation to reverse the Administration's action.**

The high incidence of serious child abuse among drug-addicted mothers inflicts pain and damage on cocaine-addicted babies. With some 350,000 children affected each year, there is an obvious need for a change in federal law to permit the testing of mothers suspected of cocaine addiction. These babies are at high risk for foster care and for severe damage to their health and development.

South Carolina Attorney General Charles Molony Condon ran a successful program of testing, mandated treatment, or a jail sentence if the mother refused treatment. The result was dramatic: the incidence of cocaine-addicted mothers fell from 24 per month in Charleston to five or six per month.⁸⁶ The Clinton Administration, however, called the program punitive and racially discriminatory and threatened to cut off all federal reimbursements to the hospital involved, effectively threatening to

⁸⁵ According to the House Ways and Means Committee's 1994 *Green Book* on federal entitlement programs and DHHS/ACF data on federal payments to the states for foster care services, the total federal share of foster care payments for 1994 was \$1,971,273,000 for 244,473 children, and the average of the federal share of the individual state's foster care bills is 60.88 percent.

⁸⁶ Charles Molony Condon, "Clinton's Cocaine Babies," *Policy Review*, Spring 1995, pp. 12-15.

shut down the program and discouraging other states interested in replicating the Charleston model.

Congress should take steps to reverse this Administration policy. The use of cocaine by pregnant women is a major factor in the death or severe damaging of many thousands of cocaine-affected newborns.

3) Issue annual report cards on the rate of adoption in each state.

To redress the poor quality of national data on adoption and foster care, Congress should instruct the Department of Health and Human Services to issue comparative report cards on the performance of each state in a number of areas concerning the family condition of children, including:

- ◆ The number and rate of out-of-wedlock births,
- ◆ The rate of adoption,
- ◆ The length of stay in foster care, including information on the longest stays,
- ◆ The typical period between the availability of a child for adoption and the child's adoption, and
- ◆ The typical period between the beginning of foster care and the agency's finalization of a placement plan (decision regarding the future of the child).

Dissemination of such information will keep state residents better informed and help encourage agencies to find children good, permanent homes.

4) Require hospitals and clinics receiving federal funds for family planning services to provide clear and accurate information on the benefits of adoption to all out-of-wedlock teenage mothers.

Congress should require HHS to contract with pro-adoption experts for the writing and distribution of an appropriate brochure on the benefits of adoption for both mother and child. Congress then should require that this brochure be distributed in all hospitals which receive federal funding, either directly or indirectly, and in all federally funded family planning clinics, and that the staff of such hospitals and clinics draw attention to this material.

5) Make it easy for all churches, particularly black churches that serve the poor, to affiliate with adoption agencies and become involved in the adoption process as outreach to prospective adopting parents.

One of the best ways the federal government can help these churches is by providing an incentive for members to adopt more children waiting in foster care. The full refundability of the \$5,000 tax credit will do much to effect this. Unless their members are able to pay most of the normal costs of adoption, there is little likelihood that black churches in poor neighborhoods will be involved. With the tax credit and with church involvement, however, the probability of an increase in adoption is significantly greater.

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- 6) **Ensure the civil rights of all children in foster care and modify the Multi-Ethnic Placement Act to prohibit clearly the use or consideration of race or ethnicity in denying or delaying the placement of a child for foster care or adoption.**

The fundamental principle behind all civil rights is equality of rights and equal treatment under law. A young child without a family cries out for as quick a placing as possible within a caring family, so that his long-term human potential may not be thwarted at critical early stages of development. The "personness" of that child is infinitely more important than his or her "blackness," "Indianness," "Hispanicness," or "Asianness." In cases where parents of similar ethnic background are unavailable within, say, a 90-day period, then those who are available and willing to adopt should be united with the child, both for the child's benefit and for the good of society.

Those who are anxious to have the children of a community adopted within that community must ensure a sufficient supply of parents wanting to adopt. The onus is on the community and ought not to be placed on the waiting child. To help assure a pool of parents, Congress should work with states to streamline and simplify adoption procedures in minority communities.

Many opportunities for developing a pool of waiting parents are available. The network of minority churches is extensive. By linking with private adoption agencies, these churches can help respond to the needs of minority children awaiting adoption. Many other ethnic organizations can be harnessed to bring the pool of minority adopting parents up to the level needed. The press could carry public service announcements in minority communities. Minority fraternities and sororities also could play an important role. These and similar community efforts would raise public consciousness about adoption.

- 7) **Change the Indian Child Welfare Act to curtail the reach of Indian Nation law over those who have emigrated from those communities and societies.**

While fully respecting the right of Indian nations to regulate adoptions within their territories, and while fully respecting the rights of all Indian parents giving up their children for adoption to request that the Indian nations take these children for adoption, Congress ought to change civil rights law so that the rights of Indian or part-Indian parents living outside the nations' territories are upheld.

Under current law, a child with as little as one sixty-fourth Indian ancestry may be under the control of that Indian tribe for adoption, no matter where the child lives. While the number may be modest, the principle of "personness" again is paramount. Just as a foreign-born American citizen is not subject to the adoption laws of his country of origin, an Indian who has chosen freely to leave the Indian nation and to marry someone outside it should no longer be subject to its laws.

- 8) **Reject the language in the U.N. Charter on the Rights of the Child.**

This charter could preclude adoptions for millions of children over time and deny U.S. couples the option of adopting foreign children. The unsigned U.N. Charter on the Rights of the Child may come before Congress in the near future for ratification. In the current draft, international adoption is declared to be a last option, after the home country has exhausted its search.

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As in cases of transracial and race-matching adoption, each nation has a responsibility to assemble a pool of prescreened adoptive parents if it has children waiting to be adopted. If a nation does not have such a pool, and yet blocks couples from abroad from adopting, that nation is neglecting its children. The United States should be on the side of the child rather than on the side of governments that seek international acceptance of some specious "right" to neglect their nation's children.

If the language of the U.N. Charter on the Rights of the Child is accepted by Congress, it could mean an end to most international adoptions. The Hague Convention, to which the United States is a signatory, and which guides present policies, is superior though far from sufficient. Its guiding principle is that care in a family is better for a child than care in an institution.

WHAT THE STATES SHOULD DO

Because regulating adoption is a state function, most of the practical reforms must be enacted by state legislatures. And because of the particular need to address the transracial adoption issue in a just and caring fashion, the states must take special care to eliminate discrimination against black adoptive parents and black children.

To increase the pool of available parents to fill the needs of all children, states should encourage the privatization of adoption. Specialized agencies can work constructively with those sections of the community that are willing to serve the many different needs of children: black children, older children, children with special medical problems, and children with other emotional or developmental difficulties. As different groups already have demonstrated, it is possible to line up a pool of screened and qualified parents more than willing to adopt children with even the most difficult needs.

One effort, started by Fr. George Clements in Chicago in the mid-1980s, had each church set about achieving the adoption of one child within the congregation.⁸⁷ Though initially the program received wide publicity and had some impact, it has not become a sustained and organized national effort. However, in Florida, One Church, One Child of Florida has developed a successful partnership between church and state. Between March 1988 and September 1990, this organization placed 805 black children in adoption.⁸⁸

Phoebe Dawson, a social worker who heads New Beginnings, a licensed nonprofit adoption agency in Columbus, Georgia, has been very successful in this work. For instance, an agency in Cleveland, Ohio, was not able to find minority parents for a young minority child, leaving the child at serious risk of a protracted wait for adoption. One worker at the agency contacted New Beginnings, which was able to resolve the problem quickly because of its close ties to black Baptist churches across the country.

⁸⁷ Christine Adamec and William L. Pierce, *The Encyclopedia of Adoption* (New York: Facts on File, 1991), p. 68.

⁸⁸ *Ibid.*, pp. 68-69.

To encourage adoption, states should:

1) Privatize adoption services.

Private adoption services are more efficient and more effective than state agencies where adoption is concerned, as illustrated by the track record of Detroit's Homes for Black Children. They are accountable to a board of directors, while state agencies are not. Private organizations may be sued, which increases their accountability to the children and parents they serve. By contrast, state agencies often cannot be sued. Furthermore, people are more inclined to donate money, time, services, and goods to a private adoption agency than to pay taxes for government agencies.

2) Change the way public welfare agencies are financed.

Public welfare agencies dealing with children receive more money to keep children in foster care than they do to clear them for adoption. States should make the allocation of Title IV-E monies to these agencies contingent on their record in making final determinations on the future status of children within 12 months of entering foster care. Those not returning to their families must be adopted within three months or handed over to a private agency for adoption.

3) Establish separate units at the county level to assist the courts in making speedy and appropriate judgments.

These units should make the initial decision whether to terminate the rights of the parent and bring the process to court or return the child to his family. All babies under 12 months of age coming into the protective custody of a public welfare agency should be processed through the termination unit as a matter of course. A great many such children should be placed for adoption quickly. This in turn would prevent the buildup of a large number of children in foster care — children who grow more and more difficult to place with each passing year, as the significant drop in the percentage of older children who get adopted clearly indicates.

4) Maintain special Medicaid coverage for all special-needs adopted children.

This makes it possible for many middle and low-income families to adopt a sick child they would not be able to care for without Medicaid support. It makes sense for government to provide this support, for the special-needs child in foster care will cost the government even more.

5) Remove obstacles to transracial adoptions.

While working to increase the pool of minority parents and to enhance the flow of prequalified and ready-to-adopt minority parents, states should continue the practice of transracial adoption when no same-race parents are available. When the child becomes ready for adoption, his need is immediate and acute. Minority community groups can monitor the pool of prescreened, qualified minority parents for all the relevant categories of children: older children, older male children, sibling groups of children, medically needy children.

In addition to the issues involved in ending discrimination against black children waiting to be adopted and against black couples waiting to adopt, there is much else to be done by the states.

6) Use leadership opportunities to encourage adoption.

Governors and state legislatures should consider mounting campaigns to increase interest in adoption. With the prompting and advocacy of the Institute for Children in Cambridge Massachusetts, the State of Massachusetts, under Governor William Weld's direction, recently embarked upon Assignment Adoption, a series of government reforms to reduce the number of children in foster care and to increase the practice of adoption.

7) Establish separate units for termination of the parental rights of convicted abusing parents.

When the difficult duty of assessing the appropriateness of terminating parental rights is commingled with the mandate to preserve the family at all costs, the good of the abused child suffers. The long-term good of the child is helped by establishing separate units of social workers who help the court reach clear and speedy decisions regarding the parents' right to continue as parents. These workers can help the courts without the conflict of interest that is present when they also try therapeutically to help the family come together or stay together. It is best that such work be carried on by a different set of professionals. The best interests of the child remain paramount while the effort to help the parent is vigorously pursued.

8) Enact a strict 12-month timeline for adjudication of the long-term parental status of every child in foster care.

A University of Chicago study finds that children who enter foster care as infants remain in the system 22 percent longer than other young children.⁸⁹ Within a 12-month period, the court and the termination unit should decide whether a child should be returned to his parents or placed for adoption. Continuance in foster care beyond that time must be regarded by all as a failure to provide properly for the needs of the child. To be lax or negligent in this matter is to be guilty of serious child neglect.

9) Centralize the collection of state data on all formal adoptions and foster care actions.

In order to facilitate the practice of adoption and the reduction of foster care lengths of stay to the minimum time needed, the collection of accurate data is critical. At present it is poor and varies greatly in quality between states. National leaders, national and state campaigns to encourage adoptions, and the stimulation of executive action to initiate and maintain reforms all require an accurate picture of what is happening to children in adoption and foster care. The state Office of Vital Statistics or its equivalent ought to be the repository of all adoption information, and the state Office of Human Services or its equivalent ought to be the repository of all foster care data.

⁸⁹ See Craig, "What I Need Is a Mom."

- 10) Enact legislation requiring of public social service agencies the same licensing standards and requirements as those now imposed on private adoption agencies.**

Just as Congress has passed a law (H.R. 1 and S. 2) to subject itself to the same regulations it imposes on the rest of the country, all state agencies involved in adoptions ought to be subject to the same reporting and regulatory oversight as adoption agencies are. This reform will likely have the speedy effect of reducing these regulations to the bare minimum needed for the good of the child.

- 11) Mandate drug testing of pregnant mothers suspected of drug abuse, particularly cocaine abuse.**

Because of the high incidence of serious child abuse among drug-addicted mothers, because of the pain and damage done to cocaine-addicted babies, and because this condition now affects 350,000 children a year, states should push for a federal law permitting the drug testing of mothers suspected of cocaine addiction so that hospitals may participate in such programs without being threatened with a cutoff of federal funds as happened in the South Carolina case discussed above.

Children born to drug-addicted mothers are at risk for a host of difficulties and abuses: lower birth weight, physical abuse, and not getting the affectionate nurturing critical for early attachment formation and its concomitant long-range benefits, among them the formation of a solid conscience and the ability to relate well with others. Given these risks to the child, the requirement of drug testing when cocaine or crack cocaine ingestion is suspected is an appropriate protection.

- 12) Prohibit the removal of a child who is eligible for adoption from foster parents who are willing to adopt the child, except when the child is being returned to the legal parents. Enact legislation to permit foster parents to initiate adoption proceedings.**

If the parents are deemed by the agency as suitable for fostering the child, they should qualify automatically as suitable for adopting the child. Today, many foster parents are willing to adopt the children they have fostered once they become available for adoption. However, mainly because of the effective prohibition of transracial adoptions, these parents frequently are denied the chance to adopt the children who have become attached to them. These couples should have the right to adopt the child once the courts have decided he may be adopted. If child welfare agencies have not made this possible within six months of the court decision, foster parents ought to be granted the standing in law to sue the adoption agency and initiate adoption proceedings.

- 13) Enact laws requiring child welfare agencies to initiate adoption proceedings for any child who has been abandoned by his parents for six months.**

This rule should apply for any child in out-of-home care for six months whose parent has not engaged in meaningful interaction with the child during that period. Due process in the courts will protect the rights of parents barred from contact with their children due to very unusual circumstances. However, a child left alone for six months is a child without a dedicated parent.

CONCLUSION

More and more of the nation's children are at risk of child abuse and neglect as rates of illegitimacy rise. Their plight merits the generous response of dedicated people. Few responses can match the depth and devotion entailed in adopting a child. This dedication reduces a host of problems for the nation: the costs of extended foster care, the poorer health and slower development of children in foster care or in the home of neglectful and abusing parents, and the higher incidence of addiction, crime, and dependency.

Adoption increases the emotional, physical, and cognitive capacities of the children who are adopted. It improves the life chances of the biological mother. It saves vast amounts of money for the taxpayer. It brings much happiness to the adopting parents. It is good for all involved.

Adoption works.

The current welfare reform debate in Congress offers one of the best chances in decades to promote adoption. Sharply rising out-of-wedlock births add to the long-range costs of welfare, because being born out of wedlock significantly increases the chances of ending up on welfare. As this pool of needy children grows, all too often, up to two million couples waiting to adopt are frustrated in their efforts.

The need is great and the solution is obvious: adoption. Yet government agencies and practices actively discourage this solution which, unlike present policies, could help solve a major national problem while also reducing both welfare dependency and long-range costs. The situation cries out for reform. The suffering of the children cries out for reform.

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in Family and Cultural Issues⁹⁰

⁹⁰ The author would like to thank Mary Beth Styles of the National Council for Adoption for her generous help in preparing this paper and Conna Craig of the Institute for Children for her review and comments.

Adoption
Tax Credit

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

03-May-1996 06:17pm

TO: (See Below)

FROM: Melinda D. Haskins
Office of Mgmt and Budget, LRD

SUBJECT: More on the Letter from the Income Maintenance Division

Here are Income Maintenance Division's (Cash's) comments on the H.R. 3286 letter:

1. Recommends deleting the goal of reducing foster care and adoption assistance rolls by 100,000 per year. This would be difficult, if not impossible, to accomplish under current Social Security Act laws, and would be even more difficult if welfare reform turns AFDC into a block grant and lots of States use short, hard time limits.
2. Suggests if there must be a goal of 100,000, perhaps the goal could be increasing the annual number of adoptions by 100,000 children over a four year period (i.e., increase the number of adoptions by 25,000 each year). This might be accomplished at the same time that the foster care rolls grow as a result of an AFDC block grant with hard time limits.
3. Suggests that the Administration should not have it as a goal to reduce the adoption assistance rolls....

Distribution:

TO: Diana M. Fortuna

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