

Testimony of
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before the

United States Senate Committee on Finance

regarding

Fostering Permanence:
Progress Achieved and Challenges Ahead for
America's Child Welfare System

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I have to start by saying how proud I am of the progress that has been made in this country in the last 30 years. When our organization was founded in 1974, few people were paying attention to the foster children who were languishing in care, and adoptions of foster children older than two were rare.

Policy and program changes at the state and local level, guided by the passage of the Adoption and Safe Family Act and the creation of the Promoting Safe and Stable Families program, have made a world of difference to the nation's most vulnerable children. Children's time in foster care has been reduced, more than 330,000 children have been adopted, and adults have finally started to look at the system through the eyes of the child. Each year for the last five years, 50,000 children have left the insecurity of foster care for the permanence and stability of a forever family.

The progress has been remarkable, but there is much more to be done. More than 118,000 children are still waiting for a permanent family.¹ Many others are consigned to long-term foster care, with no one even seeking a family for them. Each year, 20,000 young people age out of care with no legal family connection and an uncertain future. Many have limited education and poor employment prospects. Too many end up homeless, incarcerated, and physically or mentally ill.

I would like to focus my remarks today in two areas that would significantly reduce the number of foster children who never find a permanent family: (1) supporting expanded permanency options and (2) providing additional post-permanency support.

Support Expanded Permanency Options

You might be surprised to hear the director of an adoption organization touting other permanency options, but we at the North American Council on Adoptable Children (NACAC) are committed to achieving each child's best interests. In most cases that means keeping a child with his birth family or reunifying that family as quickly as possible. In other cases, it means finding a grandparent, aunt, uncle, or another long-term, committed caregiver to provide legal guardianship. And, of course, for thousands of foster children adoption *is* the best option.

Provide Support to Birth Families

The *Green Book* states: "It is generally agreed that it is in the best interests of children to live with their families. To this end, experts emphasize both the value of preventive and rehabilitative services and the need to limit the duration of foster care placements."² Federal funding, however,

¹ Maza, P. (November, 2003). *Who is adopting our waiting children?* Presentation given at AdoptUSKids National Adoption and Foster Care Recruitment Summit, Washington, DC.

² U.S. House of Representative, Committee on Ways and Means. (2004). *2004 green book: Section 11,- child protection, foster care, and adoption assistance*. [Online]. Available: http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi?WALSdbName=108_green_book+2004+Green+Book+%28108th+Congress%29&WALSqueryRule=%28%24WALSqueryString%29+AND+%28reptype%3D%24sect+OR+reptype%3D%24sect1+OR+reptype%3D

does not reflect this priority. Currently, 90 percent of federal funding can be used by states only after Title IV-E-eligible children have entered foster care or been adopted.³

Since so much federal funding is for children who have entered care, states do not have sufficient resources to invest in birth family support and reunification. In recent years, we have seen the percentage of foster children who reunite with their birth families go down—from 62 percent in 1998 to 55 percent in 2003.⁴

Children can reunify with their birth families when parents get needed support. In Nashville recently, I met Melissa, a mother who was addicted to drugs. She was at risk of losing her son Marley when she found an innovative drug treatment program that keeps parents and children together, rather than placing children away from their families in foster care. Melissa explains how hard it would have been for Marley to enter care rather than staying with her during treatment: “The pain of his mother being sick and gone ... I know that would have been devastating. He would have gone through things he shouldn’t have to. None of it was his fault. To be able to heal with him while I was healing—that was just a beautiful thing.” Melissa is now a proud soccer and Cub Scout mom who loves her new job as a private duty certified nurse technician.

Annie was a meth user whose son Jory entered foster care in Oregon. She tried conventional drug treatment programs—like those offered to most birth parents—but they were not successful. It wasn’t until she found a comprehensive program that she was able to recover from her addiction and become a good parent to Jory. The program provided shelter, parenting support, and case management to help her form a more healthy relationship with Jory. “It was a very structured place,” Annie explains. “They had a parenting person and a manager on-site. ... I had to have a plan and a goal sheet showing what I was going to accomplish while I lived there.”

Today, clean for five years, Annie serves as a mentor to other mothers who are trying to overcome their addictions. “[My experience gives me] a more realistic approach with parents. It is rewarding and empowering, especially when people get their kids back,” says Annie.

A recent survey of child welfare administrators found that substance abuse and poverty are the most critical problems facing families being investigated for child maltreatment.⁵ In some areas, substance abuse is an issue for one-third to two-thirds of the families involved in child welfare.⁶ Unfortunately, only 10 percent of child welfare agencies report that they can find drug treatment programs for clients who need it within 30 days.⁷ Almost no drug-addicted parents can access drug treatment programs with a mother-child residential component, and few are able to participate in comprehensive programs that address issues of parenting and housing along with

%24sect2%29&WAISqueryString=duration+of+foster+care+placements&WAISemplate=multidb_results.html&Submit=Submit&WrapperTemplate=wmprints_wrapper.html&WAISmaxHits=40. [Retrieved May 7, 2006.]

³ In FY 2006 the appropriation for Title IV-E foster care and adoption assistance programs is \$6.48 billion while the funding for Title IV-B Parts 1 and 2 (Safe and Stable Families Program) is only \$721.7 million.

⁴ U.S. Department of Health and Human Services. (2005). AFCARS report #10 (Preliminary FY 2003 estimates). [Online]. Available: http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/tar/report10htm [Retrieved February, 2005].

⁵ National Center on Child Abuse Prevention Research. (2001). *Current trends in child abuse prevention, reporting, and fatalities: The 1999 fifty state survey*. Chicago: Prevent Child Abuse America.

⁶ U.S. Department of Health and Human Services. (1999). *Blending perspectives and building common ground: A report to congress on substance abuse and child protection*. Washington, DC: U.S. Government Printing Office.

⁷ U.S. Department of Health and Human Services. (1999). (See complete citation above.)

substance abuse. For families dealing with poverty and housing issues, support is also hard to come by. As the National Center for Child Protection Reform notes, “Three separate studies since 1996 have found that 30 percent of America’s foster children could be safely in their own homes right now, if their birth parents had safe, affordable housing.”⁸

Recommendations: Currently, for every dollar that the federal government spends on family preservation and post-permanency support, nine dollars are spent on out-of-home care. The federal government must significantly increase its investment in Title IV-B Parts 1 and 2, and provide states with increased flexibility in how they spend federal child welfare monies.

In addition, if states successfully reduce the use of foster care, they should be able to reinvest federal dollars saved into preventive and post-permanency services. Currently, when states reduce the number of IV-E eligible children in foster care, the federal government reduces its payment to the state. We recommend that the federal government provide states with an amount equal to the money saved in Title IV-E maintenance payments, training, and administration. This would provide an incentive to keep or move children out of care, while also beginning to address the vast imbalance in federal funding.

Investing in at-risk families has been shown to work. Using a IV-E waiver, Delaware demonstrated that investing in substance abuse treatment had positive outcomes for children: the project’s foster children spent 14 percent less time in foster care than similar children who did not participate in the waiver, and total foster care costs were reduced.⁹ Certain counties in North Carolina used a federal child welfare waiver to cut down on out-of-home placements by investing in court mediation, post-adoption services, intensive family preservation services, and other interventions.¹⁰

Implement Federally Supported Subsidized Guardianship

About one-quarter of foster children are cared for by grandparents or other relatives.¹¹ Right now, almost 20,000 of these children cannot return to their birth families and have been with their relatives for at least a year.¹² These stable, loving kin families are a perfect permanent resource for many foster children, but the children remain stuck in foster care simply because adoption is not the right choice for their family.

For families such as these, guardianship is the right permanency option. Des Moines resident Helen has been caring for her nine-year-old grandson Cordell for many years and is committed to him forever. Adoption, however, is not the right choice for Cordell. Helen explains, “He has

⁸ National Coalition for Child Protection Reform. (2004). *Who is in “the system” and why* [Online]. Available: <http://www.nccpr.org/newissues/5.html> [May 7, 2006].

⁹ U.S. General Accounting Office. (2002). *Recent legislation helps states focus on finding permanent homes for children but long-standing barriers remain*. Report to Congressional Requestors. [Online]. Available: <http://www.gao.gov/new.items/d02585.pdf>. [Retrieved May 7, 2006].

¹⁰ Usher, C., Wildfire, J., Brown, E., Duncan, D., Meier, A., Salmon, M., Painter, J. & Gogan, H. (2002). *Evaluation of the Title IV-E waiver demonstration in North Carolina*. Chapel Hill, NC: Jordan Institute for Families, University of North Carolina.

¹¹ Generations United. (2006). *All children deserve a permanent home: Subsidized guardianships as a common sense solution for children in long-term relative foster care*. Washington, DC: Author.

¹² Children and Family Research Center. (2004). *Family ties: Supporting permanence for children in safe and stable foster care with relatives and other caregivers*. Urbana-Champaign, IL: School of Social Work, University of Illinois at Urban-Champaign.

enough problems without his aunts and his mother becoming his sisters. That's like a bad rap song." Helen is no opponent of adoption. She has adopted four other foster children, but knows that in Cordell's case guardianship would provide the permanence he needs without rearranging family boundaries. At the same time, Helen needs assistance to help meet Cordell's significant special needs. Iowa's recently approved waiver allows only children older than Cordell to receive government-supported guardianship.

Seven years ago in New Mexico, Annabelle and Gilbert became foster parents to their nephew Vernon. After a few years, Annabelle and Gilbert were able to become Vernon's permanent legal guardians through a waiver program run by the Navajo Nation. Culturally, guardianship was the right decision for this family but Annabelle and Gilbert needed financial support to make a permanent commitment to Vernon. Now a teenager, Vernon is a true member of the family. He helps when Gilbert fixes things around the house, and hands him the right tools as they work together. "I like to work in Gilbert's garage with him fixing up cars and things. I can fix flat tires and fix my bike," says Vernon.

Jackie Hammers-Crowell, a panelist here today, spent 10 years in foster care without ever finding a legally permanent family. Her birth mother was mentally challenged and was unable to care for Jackie. Jackie stays in contact with her mother, however, whom she describes as "the world's best cheerleader." Jackie never wanted her mother's rights terminated, but would have liked a permanent family. She explains, "Subsidized guardianship may have kept me with my extended birth family, saved the state money, and kept my mom's parental rights from being needlessly, hurtfully terminated against our wills."

For children like Cordell and Jackie who remain in foster care, daily life is unnecessarily complicated—they cannot sleep over a friend's house without social worker approval. They cannot receive routine medical care without the government getting involved. A grandfather caring for his grandchildren as a foster parent recounts the unnecessary burden on his family and on the system: "A social worker comes out to our house every month. The children are embarrassed, maybe a little ashamed, that they are in foster care, and I am worried that a judge who doesn't know us is making decisions about them."

Recommendation: Federal waivers have proven the efficacy of subsidized guardianship. While waivers allow states to experiment with needed innovations, they are temporary. We now need subsidized guardianship to be an approved permanency option, included in the Title IV-E program like adoption assistance. Children in stable foster placements with relatives and other committed caregivers would benefit from greater federal support for guardianship, allowing children to leave care, eliminate costly caseworker visits, and reduce unnecessary court oversight. A federally supported guardianship program could help almost 20,000 children leave foster care to a permanent family *right now*. Thousands more could be served each year.

Expand the Incentive Program

While recent changes in the adoption incentive program placed needed emphasis on the adoption of children over age nine, states are still not rewarded for increases in reunification or guardianship. As a result, the incentive program is one-sided and may have a perverse effect—because there are incentives for only one form of permanence, states may be tempted or guided to choose one permanency option over another that might be in child's best interest. A 2002

Government Accountability Office report found that one of states' primary concerns about the program was that it might convey the impression that adoption was the best plan in all cases.¹³

Recommendations: The federal government's goal—and each state's goal—should be to achieve the best permanency option for a particular child in as short a time as possible. The incentive program should be expanded to reward states for safe reunification, guardianship, and adoption—all permanency goals that work for children.

States should also be required to reinvest incentive funds in post-permanency services and should be permitted a longer time, perhaps up to three years, to spend the funds. Typically, states are awarded incentive funds in the last days of the fiscal year, and have only until the following September 30 to spend them. A longer time to spend the money costs the federal treasury nothing, but allows for thoughtful program development and implementation.

Increase Available Post-Permanence Support

In 1997 Congress passed the Adoption and Safe Families Act, and between 1998 and 2004, more than 330,000 foster children were adopted into loving, caring families. But adoption is not a giant eraser. Children who have been abused or neglected—and who have bounced from foster home to foster home—do not emerge unscathed.

As Babb and Laws detail, children adopted from foster care face a variety of special needs: mental illness, fetal alcohol spectrum disorder, attention deficit hyperactivity disorder, emotional disabilities, attachment disorder, learning disabilities, mental retardation, speech or language impairments, AIDS or HIV, and other severe physical disabilities.¹⁴ Groze and Gruenewald agree that “[f]amilies face enormous challenges and strains in adopting a special-needs child.”¹⁵

While adoptions doubled from 1997 to 2004, post-adoptive services failed to keep pace. More people are adopting more children, and the children are often older, have been in care longer, and face daunting special needs. The Center for Advanced Studies in Child Welfare notes that older children and children with disabilities are at highest risk for adoption disruption.¹⁶ Few states or counties have the comprehensive services necessary to meet parents' needs as they raise children who have been abused and neglected and have resulting physical and emotional special needs.

The government has a moral obligation to make a long-term commitment to adoptive and guardianship families who take into their homes foster children who have languished in care for far too long, many of whom are older and have multiple special needs. These children carry their histories of turmoil with them. Below we present two key avenues for post-permanence support.

¹³ Congressional Research Service. (2004). Child welfare: Implementation of the Adoption and Safe Families Act. [Online]. Available: <http://www.pennyhill.com/aboutcrs.php>.

¹⁴ Babbs, A., & Laws, R. (1997). *Adopting and advocating for the special needs child: A guide for parents and professionals*. Westport, CT; Bergin & Garvey.

¹⁵ Groze, V., & Gruenewald, A. (1991). Partners: A model program for special-needs adoptive families in stress. *Child Welfare*, 70(5), 581-589.

¹⁶Center for Advanced Studies in Child Welfare. (1998). *CASCW practice notes # 4: Post-adoption services*. [Online]. Available: http://ssw.che.umn.edu/img/assets/11860/PracticeNotes_4.pdf [Retrieved: May 7, 2006].

Protect and Expand Adoption Assistance

Adoption assistance (or subsidy) is a critical support to families who adopt children with special needs from the foster care system. Subsidies help strengthen these new families and enable many foster parents to adopt children already in their care by ensuring that they do not lose support as they transition to adoption.

Sean and Alissa from Iowa adopted two children with serious medical needs. When they learned adoption assistance would help offset medical costs, Sean explains, “It took the weight off and moved us from thinking, ‘Can we financially make it work?’ and put the focus back where it should be—‘Can we love and care for this child? Do we have the love and commitment to parent this child?’ That was *never* in question!”

Currently, the federal government shares in a portion of adoption assistance costs only for children whose birth family income is below the 1996 Aid to Families with Dependent Children income standards. In contrast, states are obligated to provide protection to *every* abused or neglected child, regardless of family income. Unfortunately, a funding system that ties adoption assistance to outdated income guidelines has resulted in a system in which far fewer children are eligible for Title IV-E federal support. From 1999 to 2003, the average monthly number of foster children receiving IV-E maintenance payments dropped from about 53.5 percent to 46 percent.

As a result, states and localities must share a greater burden for foster care and adoption. In some states, this has severely limited the amount of funding that can go to prevention or adoption support. Recent Missouri legislation requires rapid federal action on this issue. In 2005, as allowed by federal regulations, Missouri enacted legislation that would have instituted a means test for state-funded adoption assistance agreements. As a result, more than 1,000 existing adoption assistance agreements would have been terminated. Although a federal district court found the law unconstitutional on May 1, the state is appealing the ruling and the law could still be enacted. Such short-sighted policies will relegate more children to foster care, rather than helping them leave care to a permanent family.

A recent study by Barth et al. suggests that such adoption assistance cuts are not cost-effective: “[C]uts in subsidy amounts could reduce the likelihood of adoption and ultimately increase costs for foster care.”¹⁷ In contrast, an upcoming study suggests that a small increase in adoption assistance would result in increased adoptions, again saving money in the long run by reducing higher foster care costs.¹⁸ The federal government needs to invest more in adoption assistance, thereby helping children achieve better outcomes and saving government funds.

In the long run, adoption—even well-supported adoption—saves money. The Barth et al. study demonstrates that the 50,000 children adopted each year save the government from \$1 to \$6 billion, when compared to maintaining those children in long-term foster care. Savings result from reduced administrative costs, medical courts, court expenses, compared to the costs of seeking adoptive families and providing adoption assistance.¹⁹

¹⁷ Barth, R., Lee, C., Wildfire, J., & Guo, S. (2006). A comparison of the governmental costs of long-term foster care and adoption. *Social Service Review*, 80(1). 127-158.

¹⁸Hansen, M., & Hansen, B. (2006). The economics of adoption of children from foster care. *Child Welfare*, forthcoming. In R. Barth et al. A comparison of the governmental costs of long-term foster care and adoption. *Social Service Review*, 80(1). 127-158

¹⁹ Barth et al. (2006). (See complete citation above.)

Recommendations: Since 1988 NACAC has advocated for an elimination of the link between birth parent's income and eligibility for Title IV-E adoption assistance. It makes no sense to tie a child's eligibility to the financial status of parents whose parental rights have been terminated. State *and federal* assistance should be required to ensure support after adoption for every abused and neglected child—not just every child born into a poor family. As proposed by Senator Jay Rockefeller, the Adoption Equality Act of 2005 (S. 1539) would extend Title IV-E adoption assistance to every child with special needs adopted from foster care. Such legislation would also save states money currently spent on costly income-eligibility determinations. The savings could then be invested in supporting families after permanency or preventing foster care placements in the first place.

Adoption assistance is designed to help an adoptive family meet a child's needs without creating an undue financial burden on the family. Therefore, a program in which the federal government provides support to all children with special needs adopted from foster care must maintain the federal prohibition against using the adoptive family's income to determine eligibility.

Fund More Intensive Post-Permanency Support

While adoption assistance is a critical support for children adopted from foster care, it is often not enough. Frequently, adopted children have serious mental health and other disabilities that place a tremendous burden on their new families. A recent Illinois study found that families seeking help for adoption preservation were facing issues related to anger, antisocial behavior, attachment disruption, and family instability.²⁰

We at NACAC have met far too many families who are deeply committed to their adopted children, but are unable—or barely able—to meet their children's mental health needs.

Brenda and Bob from Maryland adopted two sisters several years ago. The girls have serious mental health problems that the Gates struggle to meet. Their oldest daughter is in residential treatment and may remain there indefinitely. The financial strain is great, as is the emotional drain. Brenda notes, "If you haven't lived with children who have emotional issues, you can't imagine it. They bring you into their storm. You cannot stay out of it. Fortunately my husband and I are very strong people," Brenda adds, "We are committed to our children. We're holding on, but sometimes we don't know what we're holding on to."

Heather from New Mexico adopted Chris from foster care at age nine. At that time, Chris had been in several foster placements, including a group home. Heather explains, "Chris attended over 11 different schools by the time he hit the second grade. He couldn't really read or write; he was in special education and had ADHD." Unfortunately, after a few years ago, Chris's behavior escalated—he began stealing and lying, and then seriously injured his younger sister. Heather helped get Chris into a psychiatric hospital and then residential treatment.

Chris is coming home, but Heather knows that he and the rest of the family will continue to need extensive, often expensive support. Heather worries about their future. "When these kids get older, they need lots of services and they're just not there. Just getting a psychiatrist was a huge

²⁰ Children's Bureau Express. (2006). Benefits of adoption preservation services. [Online]. Available: http://cbexpress.acf.hhs.gov/prINTER_friendly.cfm?issue_id=2006-05&prt_iss=1 [Retrieved May 3, 2006].

struggle,” Heather explains. The family receives \$620 a month in adoption subsidies, but that barely covers basic costs. The family pays \$500 a month for private tutoring and close to \$995 a month for family therapy. They are looking for ways to cut family expenses, such as moving to a smaller house.

A mom from Minnesota has seen first-hand the devastation caused by a lack of post-adoption services. Several years ago, Alice’s adopted daughter Jane (not her real name) began to have serious behavioral problems due to attachment disorder, fetal alcohol spectrum disorder, and an appalling history of abuse and neglect. Alice tried the therapy that was covered by her medical assistance, but Jane needed more intensive residential treatment and the county would not pay for it. Alice couldn’t afford the care, and Jane’s behavior got more out of control and even violent. Eventually, Alice had no choice but to seek emergency shelter care for her daughter. The county filed child abuse charges against Alice because she wouldn’t take her daughter home where she knew she was unsafe and unprotected. Alice was forced to surrender her daughter back into foster care where Jane finally received the residential treatment Alice had been seeking all along. In the meantime, Jane had been sexually exploited and exposed to illegal drugs and even more traumatized by the instability. Rather than providing help upfront, the system put a vulnerable teenager and her mother through hell.

Post-adoption and post-permanency supports cut down on the risk of disruption and dissolution. Most adoptions succeed, but as many as 10 to 25 percent of public agency adoptions of older children disrupt before finalization, and a smaller percentage dissolve after adoption finalization (NAIC website; Festinger, 2002; Berry, 1997; Goerge et al., 1997; Freundlich & Wright, 2003).

Recommendations: Funding of Title IV-B must be increased, and the new funding should cover post-permanency support. Currently, good post-adoption programs are providing basic information, support, training, and other services to families in many areas. It is not enough. More resources are needed for adoption-competent mental health services and case management programs that will ensure that children with difficult histories and current mental health and behavior problems do not needlessly return to foster care or devastate their new families. If we want adoption and guardianship to be truly permanent, we must find the resources to provide in-depth, sometimes intensive support to these permanent families. It is far more economical—let alone humane—to provide these services now to ensure that children don’t return to foster care.

Conclusion

The last several years have shown us that when we have the political will and the resources we can ensure that tens of thousands of children find a permanent, loving family—with their birth families, relative caregivers, or adoptive parents. It is time for us now to do what is right and expand our investment to reach even more children. We cannot rest on our laurels and ignore the children remaining in foster care or the families who have opened their hearts and homes permanently to foster children.

Andrea, an adoptive parent from Pennsylvania, said at a recent NACAC forum, “Although parenting has been extremely difficult and challenging at times, my husband and I know that adopting our three beautiful children was worth it. The sadness we so vividly saw in their eyes the day they moved into our family is rarely, if ever, seen as they continue to grow emotionally.”

Andrea's story shows us how foster children with special needs—even those with behavioral challenges—do better in a forever family. Yet families and children need services and support so that adoption and other forms of permanence, such as subsidized guardianship, can last a lifetime. Melissa of Tennessee and Annie from Oregon teach us that birth parents can heal and parent their children given the right treatment and supports. We need to be partners with these parents and provide an expanded continuum of funding and services. Children will be better off and, in the long run, so will our society.