Foster Care

written by Betty Reid Mandell | January 25, 2010

VICTORIAN PHILANTHROPISTS didn't mince words when they talked about poor kids — those kids were dangerous or perishing — that is, in danger of becoming criminals or already sunk in crime. The philanthropists formed charity schools, "Ragged Schools," and Sunday Schools to teach these children some morals and a little reading — not enough to give them big ideas about their station in life, but enough to get them to work a little more efficiently and obediently. Boys got a little math; girls didn't because they were headed for domestic work. The Sunday Schools, held on the only day when the children did not work, had a further purpose — to keep the "city Arabs" off the streets so that the respectable citizens could have a quiet Sabbath.

In the streets of New York City, poor children were as much of a threat to the bourgeoisie as the London kids were. Charles Loring Brace, a Yale-educated Protestant minister who hated Catholics, founded the New York City Children's Aid Society. He preached that immigrants were genetically inferior and that the only hope for their children was immediate removal from their parents' "evil influence."[1] He conceived the idea of shipping "the children of the dangerous classes" — mostly children of poor immigrants — to farms in the West, Midwest, and South. The farmers needed farm hands and their wives needed domestic help. Thus foster care began in the United States (called "placing out" in those days), and between 1854 and 1929 the Children's Aid Society shipped about 100,000 children out of New York City. Society members combed the streets looking for children. Poor parents were often terrified that they would snatch their children. "To many of the poor, the child savers were actually child stealers."[2] Most of the children were not orphans, but had parents who were too poor to care for them. Most of the parents were single mothers.

Some people called the program "the wolf of indentured labor in the sheep's clothing of Christian charity." Most of the children were Catholic, and most of the foster homes were Protestant. "Expressing a quintessentially new-world romance about rural life,"[3] Brace believed that the poorest rural home was better than the best institution. In fact, many of the children were overworked and some were sexually assaulted.

Westward expansion ended; the Catholic church protested placements of Catholic children in Protestant homes; child labor was no longer as profitable; and the "free" foster home changed into the agency-supervised foster home. Since its beginning, state- and agency-sponsored foster care has been mainly a program for the children of the poor.

Conservatives have always been worried about the poor and their children. Edward Banfield argued in 1974 that none of the programs of the 1960s War on Poverty had done any good. He believed that only authoritarian policies such as institutional care, separation of children from parents, or preventive detention based on the statistical probability of criminal behavior would even begin to eradicate it.[4] Shortly before Christmas of 1994, Speaker of the House Newt Gingrich championed a bill that would let states use federal money for orphanages. Critics invoked Charles Dickens and Scrooge; Gingrich countered with nostalgic images of *Boys Town* and Spencer Tracy. By the time President Clinton denounced the plan as "dead wrong," Mr. Gingrich was protesting that he had been misunderstood.[5]

The root meaning of "proletariat" is "people who have no other wealth but their children." Since the beginnings of foster care, most poor parents have been afraid of the power of the state to take away their children, their last remaining wealth. The 19th century Massachusetts Society for the

Prevention of Cruelty to Children was called "the Cruelty" by its clients. "Poor children said to their immigrant parents, mothers-in-law said to mothers, feuding neighbors said to each other, 'Don't cross me or I'll report you to the Cruelty."[6] Malcolm X, describing in his autobiography how the state put his mother in a mental hospital and placed him in a foster home, called foster care legalized slavery:

> We were "state children," court wards: (The judge) had the full say over us. A white man in charge of a black man's children! Nothing but legal, modern slavery — however kindly intentioned . . . I truly believe that if ever a state social agency destroyed a family, it destroyed ours. We wanted and tried to stay together. Our home didn't have to be destroyed. But the Welfare, the courts, and their doctor, gave us the one-to-three punch.[7]

In a 1966 survey of 624 children in foster care in New York City, some Puerto Rican and Black parents expressed the same feeling that Malcolm X had; they felt that their children had been "taken by the Whites." About 15 percent of the parents studied — those on the lowest socioeconomic level — thought agencies were usurpers and believed that "agencies act like parents have no rights at all — they think they own the children."[8]

Defining the problem

THE GOAL OF CHILD WELFARE AGENCIES is to protect children from abuse and neglect. But how do they define abuse and neglect? Definitions are shaped by economic and political conditions and by attitudes toward race, religion, gender, the family, and children. Legal definitions of neglect and abuse are ambiguous, giving rise to many law suits against child protection agencies.

The white Protestants of the 19th century viewed immigrants as the dangerous Other who needed to be brought under control and disciplined. They didn't like the smell of garlic in Italian homes and thought it was an aphrodisiac. They didn't like the smell of cabbage in Irish homes. They didn't like Catholics, and most of the immigrants were Catholic. They didn't like children on the street. In the countries they came from, the immigrants expected their children to help make a living. If they had a job in the U.S., their wages were low and there was no safety net. They sent their children into the streets to beg, collect junk to sell, or sing or play instruments. The child savers suspected that entertaining on the streets led to sexual delinquency, particularly for girls.

In tracing the history of child protection, Linda Gordon said, "More conservative times bring psychological explanations to the foreground, while social explanations dominate when progressive attitudes and social reform movements are stronger."[9] In the 1950s, a period of social conservatism, women-blaming escalated. Social workers tended to support marriage, even at great cost, but also looked suspiciously on active extended-family networks. Child protection workers coined a new diagnostic category of "emotional neglect," which became primarily a description of an inadequate mother-child relationship. "Child neglect discussion has particularly vividly revealed anxieties about women's 'desertion' of domesticity."[10] Mother blaming has continued to the present. A child welfare worker in Massachusetts says that in her office all case records are under the name of the mother, even when the abuser was the father or boy friend. The majority of the parents who have been charged with neglect or abuse are single mothers.

"Alarms about the 'decline of the family' have been periodic in U.S. history since the 1840s, and they have been mainly backlashes against the increasing autonomy of women and children."[11]

Neglect

ACCUSATIONS OF NEGLECT are usually connected in some way to poverty — lack of adequate nutrition, homelessness, dirty homes, poor supervision. A study of how 214 mothers on welfare provided for their families showed that most of them supplemented their meager welfare grants with help from families, boy friends, agencies or under- the-table work. The only mother who was able to meet her expenses with her welfare grant (by doing without entertainment, school supplies, transportation, laundry, clothing, Christmas or birthday gifts) had been reported by several neighbors to child protective services for neglect. Her child frequently went hungry, had only one change of clothes and often missed school because he lacked adequate winter clothing.[12]

The welfare reform bill (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) is putting more parents at risk for being charged with neglect and having their children taken away. If a mother is unable to find or to do a job, she is at risk of becoming homeless and of being unable to buy food and clothing for her child. If she gets a job and can't find day care or can't afford it, she may leave her child unsupervised. Those families who have reached their 5 year lifetime time limit for assistance are at the greatest risk. A study of mothers of young children who receive welfare found that relatively less generous AFDC benefits were associated with higher rates of children living apart from their mothers.[13] Welfare reform ended the guarantee of basic economic support for families, but mandated efforts to protect children from maltreatment. Some states use TANF (Temporary Assistance to Needy Families) money to pay for foster care. This is well spent when it goes to kinship care programs to help extended family members care for their children, but much of the money is being spent on foster care with strangers rather than for services that would prevent placement.

The White House Conference on Children of 1909 proclaimed that children should not be removed from their homes for poverty alone, but, as Linda Gordon says, "Poverty is never alone; rather it comes packaged with depression and anger, poor nutrition and housekeeping, lack of education and medical care, leaving children alone, exposing children to improper influences."[14]

Abuse

THERE HAS BEEN a steady enlarging of the definition of abuse in the past thirty years. It has expanded beyond physical harm to emotional harm, even to "educational harm." There has been increasing concern for "failure to thrive" infants. Physicians explore "sudden infant death syndrome" to detect cases in which the child was suffocated. Physicians are also detecting more cases in which violent shaking has resulted in injury or death.[15]

Definitions become hotly contested arenas. Following is a discussion of some differing definitions of child abuse.

Cultural practices

DIFFERENT CULTURAL PRACTICES pose a problem for child welfare workers, and for the general public. At the extreme, there is general agreement in the U.S. that clitorectomy of girls constitutes child abuse, but there are many gray areas. Randy Cohen responded to one of these in "The Ethicist" column of the *New York Times* magazine. The questioner asked about a co-worker who is taking a week off to be with her 6- year-old daughter while the little girl fasts for 6 days — not a total fast, but a diet of fruit, nuts and water, part of a tradition observed in her native India. The questioner asks if this should be reported as child abuse. Cohen responded: "You keep quiet not because you defer to tradition but because you've no knowledge of actual abuse. A few days on a vegetarian diet, even an austere diet like this one, does not meet that standard."[16] Cohen goes on to say that while some professions have a legal duty to report suspected child abuse, we all have a duty to thwart imminent serious harm to a particular person, whether the harm arises from religious conviction,

local custom, or ordinary boneheadedness. He concludes, "I'd feel no better about your burning me at the stake out of deep spiritual yearning than I would because you were just having a bad day."[17]

Spanking

THERE IS NO GENERAL AGREEMENT in the U.S. about whether spanking constitutes abuse. This country is not yet ready to pass a law prohibiting spanking, as Sweden, Finland, and Norway have done. Yet there was a tentative step in that direction by the City Council of Oakland California, which introduced a resolution in 1999 to make Oakland the nation's first official No Spanking Zone. They planned to place stop signs with that message in libraries and other public buildings. "We want people to know it's not a good idea to hit kids. And when the government takes a stand against it, it helps them realize they're not supposed to do it," said Dr. Irwin Hyman, a psychologist who runs the National Center for the Study of Corporal Punishment and Alternatives at Philadelphia's Temple University. Opponents of the purely symbolic resolution argued that local government has no business telling parents how to discipline their children, and that laws already exist to protect youngsters from child abuse. (The resolution did not pass.)[18]

In one episode of his animated cartoon "Boondocks," Aaron McGruder shows a little boy having a destructive temper tantrum in a supermarket while his mother looks on, feeling powerless to stop it. The grandfather loans his belt to her. She whips the child while several onlookers look on in approval, and she herself finds that she enjoys it. The grandfather tells the mother, "I believe no child should go unwhipped."

In Massachusetts all homeless families who apply for shelter are required to be interviewed by a child welfare worker whose job it is to assess the risk to the children. Most clients are worried about this interview, fearing the possibility of having their children taken away. In a Boston welfare office where I do outreach, a Haitian colleague warned a Haitian client not to tell the social worker that she spanks her children because the child welfare department is against spanking.

In May 1992, about two hundred aggrieved people held a rally in the parking lot of the Division for Children and Youth Services (DCYS) in Concord, New Hampshire. They were supporting Stephen and Joan DeCosta, both born-again Christians whose four children were placed in foster care during a highly publicized dispute with the division in 1989. The DeCostas were accused of child abuse when the children's grandmother reported that one of the DeCosta children had been spanked until he bled. The DeCostas are one of a group of parents who claim they have a right to decide how to discipline their children, while DCYS maintains it has an obligation to draw the line. A district court judge found the DeCostas guilty of abuse, but the case was resolved by a consent decree between the family and the division. The family was reunited, which the division insists is always its ultimate goal.[19]

Sexual abuse

THE DEFINITION OF SEXUAL ABUSE changed through history. In the years between 1880 and 1910, the Massachusetts Society for the Protection of Children recognized incest but thought it was exclusively a vice of the poor, whom they considered to be animalistic and lacking in standards of family life. "Its agents did not see themselves in incestuous fathers, or their own daughters in the incest victims they met."[20] Although they saw incest as a brutal male crime, they did not view its victims as innocent. They drew a connection between the incest and a girl's subsequent sexual misbehavior.

In the years between 1910 and 1960, child protection agencies were alarmed about sexual attacks on young girls, but assumed these attacks were perpetrated by strangers. They paid less

attention to incest and more attention to the sexual delinquency of girls. There was heightened concern about the girls' sexual delinquency during the war, as there was panic about venereal disease. "With VD as the emphasis, soldiers and sailors became the victims, and their female sexual partners the disease- spreading sources."[21]

"Incest was brought out into the open only when a women's rights movement challenged assumptions that conventional family life was inherently superior."[22] Before that, social workers and psychiatrists had been skeptical toward claims of young girls who said they had been seduced by their fathers. A Boston psychiatrist said in 1954, "We must ask ourselves whether our tendency to disbelief is not in part at least based on denial. The incest barrier is perhaps the strongest support of our cultural family structure, and we may well shrink from the thought of its being threatened."[23]

The women's movement created widespread public consciousness about sexual abuse. That consciousness sometimes turned into hysteria, as in the accusations about sexual abuse in day care centers such as Fells Acre in Massachusetts in 1984 where the staff were accused of highly unlikely acts of sexual molestation of children. The staff were jailed, but this triggered a study of false memories of children, showing that children could be coached by social workers and psychologists to "remember" things that never actually happened. This happened in a period when more woman were entering the paid labor market and there was much anxiety and guilt about working mothers who placed their children in day care, which buttressed the resistance of conservatives toward expanding day care for working mothers.

Hysteria about sexual abuse sometimes leads to a kind of Puritanism. A male day care teacher in the 1980s told me that he was not allowed to hug little girls because of the fear of accusations of sexual abuse.

A single mother on welfare was caught in this hysteria. In September 1986 a social worker with the Massachusetts Department of Social Services informed Brenda Frank that an anonymous complaint of sexual abuse and neglect of her two young daughters had been filed against her. Frank said, "I was frozen. Shocked. It was beyond my comprehension. . . The allegations included the fact that my 4-year-old, Emily, was still being breast-fed occasionally and that both girls (Emily and Rebecca, then 6) slept in my bed with me."[24] Frank belonged to the La Leche League, a group advocating breast-feeding until a child naturally weans herself. Frank had read dozens of books on nutrition, childbirth and parenting during her two pregnancies and said, "I felt sure that all I had to do was explain the La Leche philosophy of child-led weaning and give her some of their literature. I thought I would show her their literature and the stuff I've been reading about the concept of mother and child sharing a bed. I had a book by Tine Thevenin called *The Family Bed: An Age-Old concept in Child Rearing.* I told the worker that I didn't agree with the fact that in our country children are expected to sleep alone at night in their own rooms behind closed doors. I told her my girls slept with me because I wanted them to feel safe at night."[25]

The social worker was not impressed by Frank's progressive ideas. She sent a letter to Frank telling her that the allegations against her had been substantiated. Frank got a lawyer who appealed to the commissioner of DSS for a review of her case. The allegations were dropped, but it would be two years before her name was finally taken off DSS's central list as an alleged perpetrator. Frank became an advocate for other parents. She helped to start Families United, a support group for families having problems with DSS. At the time of the Frank case, there was no mechanism by which a person could appeal a complaint of abuse or neglect. Frank helped to change that. Now there is an automatic review process in place in Massachusetts.

Frank believed that the person who anonymously reported her to DSS worked at her complex and might have been angered by Frank's advocacy against the use of pesticides on the grounds and

for the ability of elderly residents to have pets.

Sexual hysteria is not confined to the United States. A highly publicized case involving sexual abuse in France has led to a re-examination of the entire French penal system. In February 2000, the social services office of Boulogne-sur-Mer reported suspicions of sexual abuse of children by their parents in the working-class neighborhood of Tour-du-Renard, in Outreau, and placed the children of the couple in foster care. The examining magistrate in charge of the Outreau case seemed to have been convinced he was confronted with a vast pedophilic network. The accused couple implicated other people, and the magistrate imprisoned them. Some were imprisoned for 3 years. One committed suicide after a year of detention. The media described the accused as modern-day "monsters." Eventually 17 people were indicted. All of the 24 children of the accused were placed in foster homes.

In May 2003, after 3 years of denial, the man of the original couple confessed that he raped his daughters and exculpated all the other defendants except his wife and two neighbors. Four years after the Outreau affair ended, an official commission of inquiry was appointed to "examine the malfunction of justice" and make proposals for reforming the French penal system. The affair provoked outrage among all French citizens. The commission's meetings were broadcast in their entirety by several TV stations. The meetings of the parliamentary commission broke all records for viewership.[26]

Some of the innocent defendants were still not able to recover custody of their children.

Homosexuality

LIVING WITH HOMOSEXUAL PARENTS is thought by some people to be a form of child abuse. This issue became a political football in Massachusetts in the 1980s. The state child welfare department, Department of Social Services (DSS) placed two brothers, age 22 months and 2 1/2 years, with two gay men, Donald Babets and David Jean, in May 1985. When some neighbors complained, the *Boston Globe* published an article about the placement.[27] Two weeks after the placement, DSS removed the children and placed them in another foster home and later returned them to their mother, who had originally requested the placement and had approved of their being placed with the gay men.

After the article appeared, a firestorm of controversy ensued and the case gained national publicity. The men had been highly recommended to DSS by a Unitarian pastor and a Catholic priest. The pastor said, "We're dealing with a very stable family in the community," but a neighbor who complained said, " I see it ultimately as a breakdown of the society and its values and morals."[28]

On May 24 the state secretary of human services Philip W. Johnston (now the chair of the Democratic party in Massachusetts), serving with Michael Dukakis as Governor, announced that "this administration believes that foster children are served best when placed in traditional family settings — that is, with relatives, or in families with married couples," except in exceptional circumstances.[29] Columnist Ellen Goodman supported the right of Babets and Jean to be foster parents, but saw it as a second-best choice, saying, "In the best of all possible worlds, each child would have its own caring mother and father."[30]

As a result of the publicity, New Hampshire banned placing children with gays. The director of the Bureau of Children sent a directive to workers "to make it 'crystal clear' that New Hampshire does not want gays as foster parents."[31]

Babets and Jean challenged the DSS decision and threatened to organize to defeat Dukakis in the

1986 gubernatorial campaign, saying, "The man does not have one fiber of intellectual or moral integrity in his bones."[32] Gay rights activists picketed the Governor, testified at hearings, and sat in at the Governor's office. They were supported by the Massachusetts chapter of National Association of Social Workers, the Massachusetts Psychiatric Society, the Massachusetts Psychological Association, and Simmons College School of Social Work. The Massachusetts Civil Liberties Union sued the state along with Gay and Lesbian Advocates, asking the state to nullify the rule that requires the foster parent application to ask about sexual preference.

In November 1989, the Massachusetts legislature passed a bill adding "sexual orientation" to a state law that bans discrimination on the basis of race, color, creed, sex, ancestry and religion.[33] In April 1990, the Dukakis administration changed its policy on gay foster parenting. The new state policy made parenting experience — not sexual orientation or marital status — the key factor in assigning children for foster care in Massachusetts.

In 2003, the Massachusetts Supreme Judicial Court declared same-sex marriage to be legal, making Massachusetts the first and only state to allow same-sex marriage. Opponents of the law have collected signatures to conduct a referendum on the law, which they hope will lead to a constitutional amendment prohibiting same-sex marriage.

Dukakis lost the support of Boston's Gay/Lesbian Political Alliance in his bid for the president. They unanimously endorsed the candidacy of Rev. Jesse Jackson in the Democratic primary.[34] Most of the homosexual vote in California's primary was expected to go to Jackson, who was the only candidate to address gay and lesbian issues during the presidential campaign.[35]

In 2006 the gay issue surfaced again. The four Roman Catholic bishops of Massachusetts planned to seek permission from the state to exclude gay couples as adoptive parents. Catholic Charities had placed 13 children with same-sex couples in the past two decades, "a tiny fraction of 720 adoptions completed by them during that time."[36] All of the 13 children placed by Catholic Charities had been in DSS foster homes. They had been abused or neglected and were considered hard to place because they were older or had special needs.

The 42-member board of Catholic Charities, which is made of some of Boston's most prominent lay Catholics, voted unanimously in support of continuing to allow gay couples to adopt children. Seven board members resigned over the bishops' edict. State authorities say adoption agencies cannot discriminate. Catholic Charities ended its adoption services, saying that this was the only way they could comply with both state law and Catholic policy. Governor Mitt Romney talks of trying to get a law passed that would allow religious agencies to get an exemption from state law. The Massachusetts legislature is not sympathetic to his proposal.

Witnessing domestic violence

CHILDREN OF BATTERED MOTHERS have been removed from their homes and placed in foster care solely because the children saw their mothers being beaten by husbands or boyfriends. Judge Jack Weinstein of the U.S. District court, Eastern District of New York, ruled this practice to be unconstitutional and ordered it stopped. An expert witness in the case, Jeffrey L. Edelson, who surveyed the existing research on how children respond to witnessing domestic violence, observed that

some child protection agencies in the United States appear to be defining exposure to domestic violence as a form of child maltreatment. . . Defining witnessing as maltreatment is a mistake. Doing so ignores the fact that large numbers of children in these studies showed no negative development problems and some showed evidence of strong coping abilities. Automatically defining witnessing as

maltreatment may also ignore battered mothers' efforts to develop safe environments for their children and themselves.[37]

Substance abuse

THE "WAR ON DRUGS" not only resulted in a dramatic increase in the prison population: it also led to a dramatic increase in the foster care population. A woman in Illinois was put on trial in 1988 before a grand jury for manslaughter in the death of her addicted newborn. A Florida woman was convicted in 1989 of delivering drugs to the recipient (the foetus) in her womb. A judge sent a woman in Washington to jail for the last few months of her pregnancy after a drug test revealed cocaine use.[38]

Some people believe that jailing drug-addicted mothers serves as a warning to other woman, but Dr. Ira Chasnoff, a pediatrician who heads a Chicago perinatal association, says, "If you jail one woman, the only lesson you teach women is to stay out of the prenatal health care system." The lesson he wants to deliver to these mothers is: "Come in for health care. Now. If we jail women until delivery in a mythical drug-free prison, do we then send them and their babies back to the same streets? Or do we take the children away from their mothers and put them into the beleagured foster care system? And will we jail those children again when they are 16, pregnant and strung out?" The columnist Ellen Goodman comments, " How ironic to spend money jailing mothers while others who seek help are being turned away, because there is no room at the treatment center."[39]

In a University of Florida study of children born with cocaine in their systems, one group was placed in foster care and another group with birth mothers able to care for them. After one year, the babies were tested using all the usual measures of infant development: rolling over, sitting up, reaching out. Consistently, the children placed with their birth mothers did better. For the foster children, the separation from their mothers was more toxic than the cocaine.[40]

Several years ago I helped to found a house for drug-addicted mothers who were in treatment and trying to get their children back from foster care. The city, which owned the lot in the Roxbury district of Boston, sold it to the organization for $1. We had a house built on the lot which had facilities for children to sleep over on visits with their mothers. The mothers eventually got their own apartments and were reunited with their children after successfully completing treatment.

A system in crisis

A DIRECTOR of the Child Welfare League of America in 1969 said that foster care is "a mess."[41] It is still a mess.

Many of the children have been bounced from home to home, and sometimes to residential institutions, and become more emotionally damaged than they were when they went into the system. Most children who remain in foster care for more than a few weeks experience multiple placements. As of September 30, 1998, nearly two thirds of the children then in foster care had experienced between one and two placements, 21 percent had experienced 3 or 4 placements, and 16 percent had experienced five or more.[42] Lamont Wilder, a child described by Nina Bernstein in *The Lost Children of Wilder*, had experienced 4 different placements and said that "the only emotion he really knew how to feel was anger. This was the way the system had damaged him, he thought. It had made him really good at feeling angry, and confused by any other emotion."[43]

There are never enough foster parents because they aren't paid enough to attract more people, and they are often given little training. Because of the shortage of foster homes, children are often placed with unqualified people or foster homes are overloaded. Workers are generally overloaded

and often inexperienced. It is a difficult and often dangerous job, and there is high turnover. While most have college degrees, the degrees are not necessarily related to their work. They spend a large portion of their time investigating false allegations of abuse or neglect and don't have enough time to get deeply involved with their clients.

Foster care doesn't necessarily protect children from abuse. According to data compiled by the Department of Health and Human Services in 1999, the rate of child maltreatment was more than 75 percent higher — and the rate of fatal maltreatment almost 350 percent higher — in foster care than in the general population.[44]

Children who "age out" of foster care, at the age of 18 (or in some states 21), are at greater risk of mental illness, poverty, and homelessness, than are adults who had not been in foster care. A 2005 study, based on a random sample of 659 case records and interviews with 479 foster-care survivors, showed that when compared to adults of the same age and ethnic background who had not been in foster care:

Only 20 percent could be said to be "doing well."

They had double the rate of mental illness. Their rate of post-traumatic stress disorder was double the rate for Iraq war veterans.

They were three times more likely to be living in poverty — and fifteen times less likely to have finished college.[45]

Nationwide, about 60 percent of reports of child abuse and neglect received by child welfare agencies are found upon investigation to be "unfounded."[46] Disgruntled spouses make complaints about their spouses; boyfriends and girlfriends make complaints about each other; relatives report each other; neighbors report neighbors; workers report their co-workers. People are allowed to remain anonymous when they complain, without fear of reprisal. A Canadian study found that intentionally false reports of neglect or abuse were relatively infrequent (4 percent of all reported cases), but in cases where a custody or access dispute occurred, the rate of intentionally fabricated allegations was higher (12 percent). Anonymous reporters and noncustodial parents (usually fathers) most often make intentionally false reports, while custodial parents (usually mothers) and children were least likely to fabricate reports of abuse or neglect. Neglect is the most common form of intentionally fabricated maltreatment.[47]

There are few due process rights for parents who have been accused. Workers have the power to remove a child on the spot in 20 states. (There is no equivalent of a "Miranda warning.") In all but four of the rest, they need merely to call the police to do it for them. Often these removals occur at night. Parents must then go to court to try to get their children back. In most states, there is supposed to be a hearing in a matter of days, but often it takes longer to get their day in court. Such hearings tend to be five-minute assembly line procedures with a Child Protection Services lawyer who does this for a living on one side, and a bewildered, impoverished parent who just met her lawyer five minutes before — if she has a lawyer at all — on the other. Children are almost never returned at these hearings. If the children are lucky, they get to go home after the next hearing in 30 or 90 days. Or maybe they will never go home at all.[48]

Children are often removed from their homes or schools without warning, subjected to intrusive interrogations, medical examinations, and/or strip searches, and placed in foster homes or group residences while the legal system sorts out their future. This can be a terrifying experience for children and families. The number of emergency removals has increased in the past two decades. This has led to a dramatic increase in the foster care population, which grew from 262,000 in 1982

to nearly 550,000 in 2001. More than one in three were later found not to have been maltreated at all.[49]

History of child protection

CHILD PROTECTION grew out of 18th century child- saving activities, devoted to placing poor and abandoned children in asylums and apprenticeships. Child-saving drew heavily on women's reform and philanthropic work, springing not only from condescension toward the "lower classes" but also from their search for an arena in which to feel powerful. They were motivated by religious convictions.

The nineteenth century child-savers were influenced by the women's movement and by the temperance movement. Their critique of the patriarchy led them to define cruelty to children as primarily a male problem, "usually presumed to be an ignorant, 'depraved immigrant man.'"[50] They blamed drinking for virtually all family irregularities.

During the Progressive era, middle-class "experts" replaced the upper-class charity ladies in child-saving. They emphasized child neglect more than abuse and regarded poverty, unemployment, and illness as contributing causes, in addition to alcohol. They were alarmed by the numbers of single mothers involved in neglect cases, which they believed indicated a weakening of the family. This attitude toward single mothers has persisted to the present time. The Progressives assumed the ideal family norm to be a father working and earning "family wages" and a wife staying home to care for the children. Poor mothers could never live up to this norm because they had to work to support their family. As more middle-class mothers entered the wage labor market, the norm was increasingly outdated for all families.

The Progressive era child protection work helped build the new profession of social work, which dominated the child protection field until the 1960s, when doctors medicalized child abuse by defining "the battered child syndrome." Since then pediatricians have been the final arbiters of child abuse, although social workers are still primarily the arbiters of child neglect.

The development of social work contained two divergent streams — casework on the one hand, and group work and community organizing on the other. Casework focuses on individuals and their problems, while group work focuses on people giving each other support in solving problems, and community organization mobilizes people to solve problems through social action.

Casework was begun by Charity Organization Society (COS) workers in the 1880s, who were politically conservative. They believed that charitable giving eroded personal responsibility and their main goal was to prevent the undeserving from receiving relief. Social work schools were begun by COS workers, which emphasized casework and drew on psychological theory. Settlement house workers were contemptuous of the COS approach. They lived and worked *with* the people in their neighborhoods, building on their strengths and valuing their heritage. Jane Addams helped immigrants develop their native crafts and helped their children to be proud of their parents' achievements.

Some caseworkers have always worked for progressive reforms, but their reliance on casework meant that few social workers formed support groups of parents, foster parents, and children, and fewer still mobilized their clients to change the system. When I worked in a child welfare department in Greeley, Colorado in the late 1950s, I organized a foster parent support group, and the foster parents in turn organized a support group of the adolescents in their care. At the time there was a policy that prohibited foster children from getting a driver's license. These adolescents protested that policy, and persuaded the director of child welfare to rescind it.

In the late 1960s at a child welfare agency in Hartford, Connecticut, I helped to organize a foster parents' group.[51] The agency encouraged them to be partners with the social workers in decision making. The foster parents worked closely with the parents of the children in their care to strengthen the ties between the children and their parents. One foster parent even invited the child's mother to live at the foster parent's house for a week to help the parent gain a better understanding of the child, in preparation for the child's return to his mother. After the child returned, the mother and child continued contact with the foster parent.

Like all caring professions dominated by women, foster care is both undervalued and underpaid. Most social work staff are female, except for the executives, who are mostly male. Many foster parents are married couples, but most of the day-to-day care of the children is done by the foster mother. Social workers are often unionized, especially in public agencies, but as far as I know there has been no attempt to unionize foster parents, although there is a national organization of foster parents, with state chapters. The money that foster parents receive from agencies is usually called "board payments" rather than "wages." This carries the message that foster parents are not considered to be professionals, but are doing the work out of their love of children. Foster parents often complain that they spend more on the children than they receive.

Paying foster parents a living wage would prevent many of the moves that children undergo in the system. For example, Lamont Wilder had to leave a loving foster home where he was thriving because the foster mother separated from her husband and had no marketable skills because she had stayed home to care for her own child and the foster child. She had to get training and find a job, and could not afford to keep the foster child. The child was then placed in several foster homes and treatment institutions and suffered serious emotional damage as a result. If the foster mother had been paid a living wage, she would probably have kept the child. "Lamont's 21 years in foster care had cost the public $531,021."[52] That amount of money could have been used to pay the first foster mother a salary of $25,286 for 21 years. When Lamont "aged out" of foster at the age of 21, he couldn't afford the price of a bed.

Race and religion

CHARLES LORING BRACE viewed the children who he put on the "orphan trains" as racially inferior. While the Irish, Italians, and Poles weren't black, they were seen as something other than white. Catholics believed that the purpose of the orphan trains was to destroy the Catholic faith by stealing and converting its children.[53] In response, the Catholic charity establishment expanded its own child saving operation and organized their own "orphan trains." The children they sent west were predominantly Irish.

When one of Brace's orphan trains arrived at a town, townspeople would flock to the station to look them over and selected the child they preferred. However, the Catholics, through the New York Foundling Hospital run by the Sisters of Charity, arranged foster home placements in advance through the local priest. One of these placements involved 41 children age 2 – 6 who were shipped with seven staff members to two Arizona copper towns, Clifton and Morenci in 1904. Almost all the practicing Catholics in the towns were Mexicans, whose men worked in the copper mines. The priest had arranged to place the children in these Mexican homes. While the Irish children had been seen as something other than white in New York City, the train ride "transformed them from Irish to white"[54] in the eyes of the white Anglos who met the children at the station. They were shocked that white children should be given to Mexicans. They wanted the children for themselves. The women persuaded their husbands and the sheriff to form a posse, which went into the homes of the Mexicans with guns and forcibly removed the children. The nuns took 21 children back to New York and 19 remained with Anglo parents. At the court trial in Phoenix, no Mexicans were present or heard from. "It was an Anglo courtroom in its personnel and equally in its definition of non-Anglo

people."[55] The court ruled that it was "in the best interests of the children" to leave them in the Anglo homes. The country's leading progressive social work periodical, *Charities*, approved of the Arizona court decision and declared the Mexican homes "degraded and unfit."[56]

Linda Gordon cites other instances of child stealing in the name of the best interests of the child:

> Between 1910 and 1975, white Australians stole 100,000 children from aboriginal women, giving the light-skinned children to white couples to adopt and the dark-skinned to orphanages. Inuit and Native American children were forcibly removed from their families in both U.S. and Canadian government action. The Swiss government took Romany children. In Israel, Ashkenazi (European) Jewish women, with the help of doctors, stole babies born to Sephardic Yemeni Jewish mothers from the hospitals; the mothers were told that the babies had died.[57]

The clash between religion and race surfaced again in New York City in the 1970s. A liberal children's court judge, Justine Wise Polier, a founder of the Children's Defense Fund, teamed up with a New York Civil Liberties Union lawyer Marcia Lowry to challenge New York City's private Jewish and Catholic agencies for their practice of denying services to black Protestant children, and for their violation of the First Amendment's separation of church and state. The plaintiff in the case, Shirley Wilder, was 13 when the case was filed and had been committed to the state training school at Hudson, New York, a harsh reformatory for delinquents. In the foster care system that had evolved for over a century in New York City, 90 percent of all foster beds were controlled by private agencies. "State law let the leading Catholic and Jewish charities select their own kind, leaving behind a growing pool of black, Protestant children like Shirley."[58]

While 85 – 95 percent of their funding came from the government, the private agencies resisted government oversight of their practices. In fact, there had been very little government oversight of their practices. "The stunted public sector, long forbidden by statute to compete with the institutional offerings of the religious agencies, provided only temporary shelters — the 'black holes' of the system, Polier called them — and reformatories for delinquents."[59]

The administrators of the private agencies and their elite board members dug in their heels and fought fiercely. The case dragged on for years. Some people compared it to Jarndyce v. Jarndyce, the legal battle described in Charles Dickens' *Bleak House*. A settlement stipulated that children should be placed on a first come, first served basis in the best available placement consistent with the wish for an in-religion preference. An Orthodox Jewish agency was exempted from the religious requirement.

By the time of the final decree in 1987, city officials argued that the decree was obsolete because the city's demographics of poverty, drugs and AIDS had nearly tripled the total number of children in the system, even as they had reduced the percentage of white children to the vanishing point. "Agencies that wanted to stay in business had little choice but to fill their foster homes and beds with black Protestant children."[60]

In 1990 Robert L. Little, the youngest brother to Malcolm X, became the director of the Child Welfare Administration. He saw the entire foster care system as dominated by whites. He favored kinship care for children, i.e. placement in homes where relatives were paid as foster parents. He saw this as similar to the foster home in which he and his sister Yvonne had grown up. They had been the only ones of the Little children placed by their mother's arrangement with friends of hers from the West Indies, in a foster home that would continue to be a gathering place for the Little

siblings even after Robert aged out of foster care at nineteen.

Little created new black-run social service agencies. He redirected money toward a program of family preservation, and he championed sibling reunification at all costs for children already divided among different foster homes. By March 1993, 43 percent of all children placed by the city went to kinship homes. The basic foster care rate was more than triple the AFDC grant. As new minority-run agencies sprang up, Little transferred kinship-care cases to those that he found deserving of support. Critics complained that foster care was now being used as a form of economic development for the black community, "a back-door method of income redistribution."[61]

In 1993 the ACLU's Marcia Lowry filed a new motion, asking the judge to appoint a receiver to take over the city's Child Welfare Administration. Little told a reporter from *New York Newsday* that Lowry's contempt motion was a calculated effort to discredit Dinkins on the eve of the mayoral election, a racial power play to put a white judge in authority over 3 black officials and over the overwhelmingly black and Hispanic children in their charge.

Robert Little returned to Michigan in 1993. He died in 1999.

In 1995 the highly publicized death of Elisa Izquierdo brought a surge in removals that swept many children into an already chaotic and overwhelmed system. Whenever this happens, an overwhelmed system typically sees a rise, rather than a reduction, in the number of children known to the child protection agency who die of abuse. A former child abuse investigator for the New York City Administration for Children's Services describes the agency climate after a highly publicized case of child abuse:

> At moments of uncertainty, the mantra was "Cover your ass" — a phrase heard often around the office . . . The obsessive concern with liability at the field offices quickly overshadows the reasonable criteria (workers) have been taught for identifying abuse and neglect. Most quickly learn to abandon their training and to do what it takes to survive . . . Caseworkers are also quiet about unnecessary removals because *doing a removal and then transferring a case to foster care takes them a lot less time than keeping it and trying to work with a family.*[62]

The turnoil in the system prompted Mayor Giuliani to pull the entire Child Welfare Administration, then run by Kathryn Croft, out of the larger city social services agency, create a new free-standing Administration for Children's Service and name Nick Scoppetta to run it. While he made neighborhood-based foster care central to reform and stressed the need for more drug-treatment options for parents and more preventive programs to make the removal of children unnecessary, he also emphasized the necessity of removing children from their homes in order to protect them. Preventive programs were severely hurt by Giuliani budget cuts. In an era of welfare reform, poverty became criminalized and parents who could not provide for their children were suspect.

> Poor mothers were led away in handcuffs because they had left a child unattended while

trying to buy milk at the grocery store, or because a child had wandered away during a family eviction. One severely depressed mother in Brooklyn was actually criminally charged with endangering the welfare of a child after she notified the authorities that she had taken an overdose of sleeping pills in a suicide attempt; had she died, prosecutors said, her three- year-old would have been left alone in the apartment.[63]

Marcia Lowry said she could not fix poverty, but surely she could fix foster care. Both she and Nick Scoppetta believed in the fiction that the two realms could be separated.

The mother of Lamont Wilder's child, Lakisha Reynolds, was in and out of low-wage jobs, college, welfare, and a homeless shelter. When she applied for food stamps for herself and her child in 1999, she was turned down. The Legal Aid Society recruited her for a class action suit, *Lakisha Reynolds v. Guiliani* which charged that the city's Human Resources Administration had endangered needy children because city workers turned away people who had a right to food stamps and Medicaid.

Shirley Wilder became a crack addict and died of AIDS in 1998 at the age of 38 in a hospice. When he aged out of foster care at the age of 21, Lamont Wilder was homeless.

From exclusion to over inclusion

BLACK CHILDREN were originally virtually excluded from the child protection system and even when they were included, as in almshouses in the 1700s, they were treated more harshly. When the women of the Society of Friends established the Philadelphia Association for the Care of Colored Children in 1822 for 12 children, "the shelter so angered whites that a mob destroyed it in 1837."[64] During Reconstruction, the Freedmen's Bureau helped to develop orphanages for black children, but blacks were treated separately from white children and in an inferior manner.[65] White-run charity organizations, mutual aid societies and the settlement house movement of the mid 1800s and early 1900s excluded blacks. Black children continued to be excluded from the formal child welfare system through the Progressive Era reform movement.

But from the 1950s to the present, black children have been disproportionately represented in out-of-home care nationally. Although blacks comprise 12.3 percent of the U.S. population, 38 percent of all foster children are black while only 35 percent are white.[66] As laws requiring uniform reporting in child welfare were passed, black children were at greater risk for being reported as abused or neglected. Black children were less likely to be placed in adoptive homes and were likely to remain two-and-one- half times longer than white children who also waited for permanent homes.

A study done at the Children's Hospital of Philadelphia found that when doctors examined children, "toddlers with accidental injuries were over five times more likely to be evaluated for child abuse, and over three times more likely to be reported to child protection services if they were African American or Latino."[67] A study of decisions to "substantiate" allegations of maltreatment after they are reported found that caseworkers were more likely to substantiate allegations of neglect by Black and Latino families — and the only variable that could explain the discrepancy is race.[68] A study of women whose newborns tested positive for cocaine found that the child was more than 72 percent more likely to be taken away if the mother was black.[69] In one study, caseworkers were given hypothetical situations and asked to evaluate the risk to the child. The scenarios were identical — except for the race of the family. Consistently, if the family was black, the workers said the child was at greater risk.[70]

A blatant example of racism occurred in 1992 when a 10-year-old black girl was living with warm stable, black foster parents who wanted to adopt her. The girl's relatives lived close by and frequently visited her. Even though the girl wanted to stay, the child welfare agency tried to place her for adoption with strangers, a white couple from an affluent suburb. The relatives feared they would lose contact with her because none owned a car. They felt this move was motivated by the social agency's elitism — "money equals a more loving family." The aunt said, "A child belongs to people who love it, even if they are not rich."[71]

Latino children may be taken from Spanish-speaking parents and thrown into foster homes where only English is spoken. In a notorious case in Texas, a judge threatened to take a young Latino child from her mother and place the girl with her father unless the mother agreed to speak only English in her own home.[72]

The stereotype of the "drug-addicted welfare mother" often propagated by the "family values" Christian right has contributed to a dramatic increase in incarcerated mothers, who are disproportionately women of color. The female state and federal female prisons populations increased 275 percent between 1980 and 1992, while violent offenses increased only 1.3 percent. Many of them are mothers whose children are placed in foster care, and all of them are poor.[73]

Permanency planning and family preservation

UNTIL THE 1970S, the focus of the child welfare field was child saving and adoption. There were few resources and minimal federal oversight, public attention, or press. It was hard for families to gain access to services and hard for children to be discharged from out-of-home care.

Although child welfare ideology has changed since then, much of the practice remains the same. The three principles governing child welfare today are: (1) reasonable efforts to prevent placement; (2) permanency planning for children in out-of-home care, and (3) placement in the least detrimental alternative. The Adoption Assistance and Child Welfare Act of 1980 required "reasonable efforts" to be made to reunify families and children. However, "reasonable" is an ambiguous term, and compliance was often perfunctory. Judges were likely simply to rubber stamp the recommendations of social workers to remove the child rather than investigating whether reasonable efforts had been made to find an alternative.

A reasonable effort to prevent placement should include providing needed services such as day care or housing, but that was seldom done. A study of "lack of supervision" cases in New York City by the Child Welfare League of America found that in 52 percent of the cases studied, the service needed most was day care or babysitting. But the "service" offered most often was foster care.[74] Courts in New York City and Illinois have found that families are repeatedly kept apart solely because they lacked decent housing.[75] In Washington D.C., where the foster care system has been taken over by the federal courts, the first receiver named by the court to run the agency found that between one-third and one-half of D.C.'s foster children could be returned to their parents right now — if they just had a decent place to live.[76]

Part of the reason for not providing those services is that those services simply don't exist. There is not enough housing or day care, and there is not enough financial assistance for impoverished families. There is not enough treatment for substance abuse. But there are other reasons as well. One is the financial aid received by states from the federal government. The National Commission on Children found that children often are removed from their families "prematurely or unnecessarily" because federal aid formulas give states "a strong financial incentive" to do so rather than provide services to keep families together.[77] There is also a bureaucratic incentive to keep children in foster care. "No worker or administrator will ever be penalized for wrongly placing a child in foster

care — even if the child is abused there. But if a child is left at home and something goes wrong, workers may be fired, judges transferred, and all face the wrath of the media."[78] Finally, there is the attitude of the social worker whose first instinct is to "rescue" a child whom she sees living in poverty on the assumption that the child will be "better off" in care. She fails to assess the dangers of foster care, both physical and emotional, and the emotional damage done to the child when separated from his parents.

Child welfare ideology has established a hierarchy of alternatives for children. The preferred alternative is the biological home, followed by adoption, foster care in the home of a relative, long-term foster care in the home of a stranger, and care in an institution. These principles are vague and have given rise to numerous law suits that charge states with noncompliance with "reasonable alternative" requirements.

Kinship care

THE EXPANSION OF KINSHIP CARE has been a major component of the explosion in foster care. It has been used extensively with black families, who have a long tradition of kinship care. Twenty-five percent of children in foster care in 2000 were placed with relatives, two-thirds of them with grandparents. About two-thirds of relative placements were wards of the state; the rest were in private arrangements. A U.S. Supreme Court decision in 1979 ruled that children living in relatives' homes were entitled to the same level of foster care payments as children living with non-kin. However, many states, in order to save money, place children with relatives in private arrangement and don't pay them or give them services. Many relatives get welfare assistance rather than foster care payments. In most jurisdictions, foster home payments greatly exceed assistance payments (sometimes three times as much). Kinship homes often receive inferior services to other foster homes. In the face of high caseloads, workers may ignore kinship placements.

Kinship care is more stable for children than foster care provided by unrelated families. They generally have higher levels of parental involvement, and often result in children returning to their parents. However, children are more likely to remain in kinship care longer than in other kinds of out-of- home care. There has been some public resentment about kinship foster care payments, assuming that "bad" parents are boarding their children simply to obtain extra money from the state.

Family preservation

ALL STATES HAVE IMPLEMENTED some form of "family preservation," intended to prevent placement in out-of-home care. The most commonly used model was called Homebuilders. This derived from crisis intervention theory which held that intensive therapeutic intervention in a family crisis could resolve their problems. Caseworkers carried from 2 to 4 cases and were available 24 hours a day 7 days a week for 4 – 6 weeks. They used psychodynamic and behavioral approaches and used behavioral check lists. They sometimes gave concrete services.

A large-scale study of the Homebuilders model in Illinois, conducted by two University of Chicago professors and a Bryn Mawr professor, found that Homebuilders was ineffective in preventing out-of-home placement.[79] They concluded that crisis intervention was an inappropriate methodology as it was originally developed as a way to respond to disasters. Poverty is not that kind of crisis but is a chronic condition. Furthermore, it was coercive. While some parents received services they would not have received otherwise and some parents benefited from the counseling, coercive therapy is often resisted. Most of the treatment relied on casework, and several studies have shown that casework is ineffective in solving large scale social problems.

The families in the Illinois program that the researchers studied were most often poor, female-

headed, single-parent households. Between one-half and three-fourths said they had emotional, financial, and housing problems. Clients wanted concrete services. Workers found it frustrating when clients did not want to work on other problems that workers viewed as important. The researchers' conclusion about family preservation programs is that "the approaches that have been tried tend to focus on the parent or the family and often ignore conditions in the community or larger social environment that may contribute to child maltreatment."[80]

Backlash

In 1993 there was a substantial backlash against family preservation in Illinois. The deaths of several children precipitated outrage among state legislators, the media, a Congressman, and the Cook County public guardian. Critics claimed that family preservation has been allowed to supersede the best interests of the child, and that family preservation programs "reward" parents for the abuse of their children. Laws were passed to include "the best interests of the minor."[81]

The backlash against family preservation also occurred in other states, and in 1997 Congress passed The Adoption and Safe Families Act (ASFA), which requires states to file a termination petition in cases in which children have been in care for 15 of the past 22 months, regardless of the child's age or special needs. This means that parents who cannot resolve the problems that led to placement within 15 months are at risk of having their parental rights terminated. This will be especially hard on parents who are substance abusers and require at least 18 months treatment, as well as on women who are imprisoned.

Adoption was viewed by Congress as the new panacea for the problems of foster care. States receive additional federal funds if they exceed their prior number of completed adoptions and federal technical support to help them reach their adoption targets, *not* their targets for discharging children home.[82] States that do not comply with the law's provisions will be denied a portion of their funds that finance foster care and other child welfare services. The law includes bounties to states of up to $8,000 or more per child for every adoption they finalize over a baseline number. The bounty is paid when the adoption is finalized, so there is an incentive to place a child with little concern about whether the placement will really last. In fact, if the adoption fails and the child is placed again, the state can collect another bounty. The law no longer requires reasonable efforts to prevent placement, but it doesn't prohibit them. It is up to the states to decide.[83]

Adoption is not the panacea that Congress had hoped for. Small increases in adoptions occurred until 2000, but then the increases stopped. The increase in adoptions was cancelled out by the number of children taken from their parents, which increased every year but one since ASFA was passed.[84] Many adoptions took place before ASFA was passed, 80 percent of them by foster parents and relatives. But ASFA put more pressure on states to complete adoptions. In their eagerness to get children adopted, caseworkers sometimes don't tell adoptive parents about problems the child has had, which leaves adoptive parents unprepared for the problems they will have to deal with. A disproportionate number of children from broken adoptions end up in group homes and residential treatment centers.[85] Lamont Wilder, a black child, was sent to a white adoptive home in Minnesota. They were unable to handle his behavior problems, and he was sent back to a foster home in New York City, and eventually to a treatment institution.

There is an increasing number of adoptions that are disrupted, especially adoptions of older children who often have severe behavior problems and are likely to have retained emotional ties to their biological parents. (many adolescent run-aways from foster homes return to their parents.)

Reform

AFTER TWO DECADES as head of the ACLU's Children's Rights Project, Marcia Lowry struck out on her own in 1995 and set up Children's Rights, Inc., an independent, national nonprofit advocacy organization. The organization has filed numerous class action suits around the country.[86] One of these suits is against the state of Mississippi, where child welfare caseloads are as high as 130 per worker. (National standards call for a maximum of 12 to 17 cases per worker.) An official in the Mississippi Department of Human Services said the state would "not necessarily investigate" whether sexual abuse had occurred if a "little girl" contracted a sexually transmitted disease. Governor Haley Barbour acknowledged that the state's Department of Human Services had "collapsed for lack of management and a lack of leadership."[87]

Marcia Lowry withdrew her suit against New York City, with the proviso that the city would bring in independent national experts to reform the city child welfare practices. The Annie E. Casey Foundation agreed to take on that role. As part of the agreement, the city demanded a moratorium on new class action law suits through December 2000. This drew fire from other children's advocates who had their own lawsuits in the works.[88]

The National Center for Child Protection Reform was set up with funds from the Annie E. Casey Foundation and the Open Society Institute, a part of the Soros Foundation Network. They seek to influence public opinion and provide assistance to lawyers bringing suit to try to change the system. They have helped New York City's Administration for Children's Services (ACS) introduce a system of accountability for the private agencies that the city contracts with to place children. They report that "child welfare reform in New York City is succeeding. The dramatic reduction in foster care placements since 1988 has been accomplished *without compromising safety* and children who come to the attention of ACS are far better off now than they were a decade ago."[89]

New York City's ACS has instituted a neighborhood-based system of foster care, the "Community Partnership to Strengthen Families" project. The goal is to place children in their own neighborhoods where they can "stay in their schools, maintain contact with their friends, and keep appropriate contact with family members and community supports. Visits with parents and siblings can occur with greater ease and frequency in neighborhood settings."[90] This plan draws upon community agencies to give supports to families. They report that "for the first time, more children are receiving preventive services (more than 33,000 children) than foster care services in New York City.[91]

One of the proposals made by the National Center for Child Protection Reform is to reverse financial incentives that encourage foster care and discourage programs to keep children out of foster care. Richard Wexler, director of the NCCPR, explains this:

> Right now the federal government pays part of the cost of foster care for every eligible foster child. If the child's birth parents are poor enough, the federal government will pay anywhere from 50 cents to 83 cents on the dollar for foster care. There is no comparable funding for programs to keep children out of foster care. So even though alternatives cost less in total dollars, sometimes foster care actually can cost less for a state or local child welfare agency. It's the ultimate perverse incentive, promoting foster care and discouraging alternatives.[92]

In Fiscal Year 2002, for every dollar spent to prevent foster care or speed reunification the federal

government spent at least nine dollars on foster care and three more dollars on adoption.[93] Wexler believes that a large part of the problem is what he calls the "Foster Care-Industrial Complex," the network of providers that lives off a steady supply of foster children, and their trade association, the Child Welfare League of America. He says that they resist any effort to reduce funding for foster care.[94]

Other recommendations of NCCPR are:

- Require daily visits, in most cases, between children and parents, when children are removed on a worker's own authority, until a full-scale trial is held. This will force workers to use more care when exercising their authority to remove children, and will help ease the trauma of removal for children.

- Prohibit searches of homes and strip-searches of children without either the informed consent of the parents or a warrant based on "probable cause" to believe maltreatment has occurred.

- Establish a rational system for screening calls to child protective hotlines.[95]

I would add the following recommendations:

- Pay foster parents a living wage and give them good training. Hire foster parents who are able to work closely with the child's parents, whenever possible to work for reunification with the family.

- Work with parents and children as partners in making decisions about their lives.

- Work with foster parents as co-professionals in decision making.

David Gil, a professor at Brandeis University and a socialist, believes that there will always be

child abuse in a competitive society and that the only way to eliminate child abuse is to have an egalitarian society. He says that there was no child abuse in the cooperative participatory democracy of Israeli kibbutzim.[96]

The novelist Kurt Vonnegut believes that the extended family would prevent child abuse. He says:

> I have just read about a teenage father who shook his baby to death because it couldn't control its anal sphincter yet and wouldn't stop crying. In an extended family, there would have been other people around, who would have rescued and comforted the baby, and the father, too.
>
> If the father had been raised in an extended family, he might not have been such an awful father, or maybe not a father at all yet, because he was still too young to be a good one, or because he was too crazy to *ever* be a good one.[97]

Leroy Pelton, a professor at the University of Nevada School of Social Work, is aware that child abuse and neglect are strongly related to poverty but he does not believe that poverty is the driving force behind the rise in out-of-home placements. Rather, he believes that it is driven by stereotyping of poor parents. Even when the rate of poverty declined, as in the 1960s, the foster care population expanded. The coercive system of child "rescue" has a life of its own, coated with a helping façade. Funding for investigation, child removal, and foster care has increased while funding for preventive services has declined. Pelton says that "child removal is a way to serve 'innocent' children without 'rewarding' their 'undeserving parents.'"[98]

> As a result, we now have a well-entrenched child abuse industry whose power resides in its ability to manufacture, by sleight of definition and encouragement, of overzealous accusation, a continuous stream of statistics designed to horrify the public.[99]

As a solution to this system, Pelton proposes to restructure the public child welfare system. He would limit definitions of child abuse and neglect to "severe harm or endangerment resulting from clearly deliberate acts of gross abdication (deliberate or not) of parental responsibility. Reports would be received directly by law-enforcement agencies, to be investigated by the police." The public child-welfare agency, "stripped of its investigative and foster care functions, would then be transformed into a family-preservation agency, devoted solely to the provision of preventive supports and services, largely to impoverished families, on a voluntary-acceptance basis."[100]

Pelton's proposal has theoretical appeal, but it risks the danger of further criminalizing child abuse and neglect, particularly in the present "lock-em-up-and-throw-away-the-key" climate. On the other hand, police may do a better job of investigating abuse than social workers do. In a highly publicized case in Massachusetts, a child by the name of Haleigh Poutre was beaten into a coma by her adoptive parents. The investigating social worker believed the parents when they said that the child was abusing herself. Further investigation proved that the parents were lying. The case was further complicated when the Department of Social Services, the agency responsible for the child,

sought to remove life support, winning a ruling by the state's highest court, only to back off a day later after she started showing signs of improvement. The legislature appointed a commission to study DSS, which recommended that police and prosecutors replace social workers in investigating violence against foster children. The proposal would also limit DSS powers in making end-of-life decisions for grievously injured and comatose children. And the proposal would place the social service agency's 500-plus private contractors under greater scrutiny.[101]

There is no doubt that parents should be offered voluntary community-based services to prevent placement in foster care. Finland has such a program. They do not believe that families should live in shelters, and they provide homes for homeless families. They guarantee child care to all families, and they have generous family leave provisions. Taking the child into care is seen as a last resort intervention. Care in the family as well as social, financial and psychological support are priorities. Public day care has been much used for child protection/welfare purposes.[102]

Some parents are incapable of caring for their children for whatever reason. Their children need to be put in a stable home, either long-term foster care, adoption, or guardianship. Most parents, however, love their children and want to take good care of them. While they may seem to be poor parents at first glance, they could be helped to be good parents with adequate support. Some need day care. Some need a home. Some need treatment for emotional problems or substance abuse. Some need respite care to give them a rest from the stress of parenting. All need money, whether from a job that pays a living wage or from adequate financial assistance. Given these supports, the risk of child maltreatment would be dramatically reduced. There is no other way.

Footnotes

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