

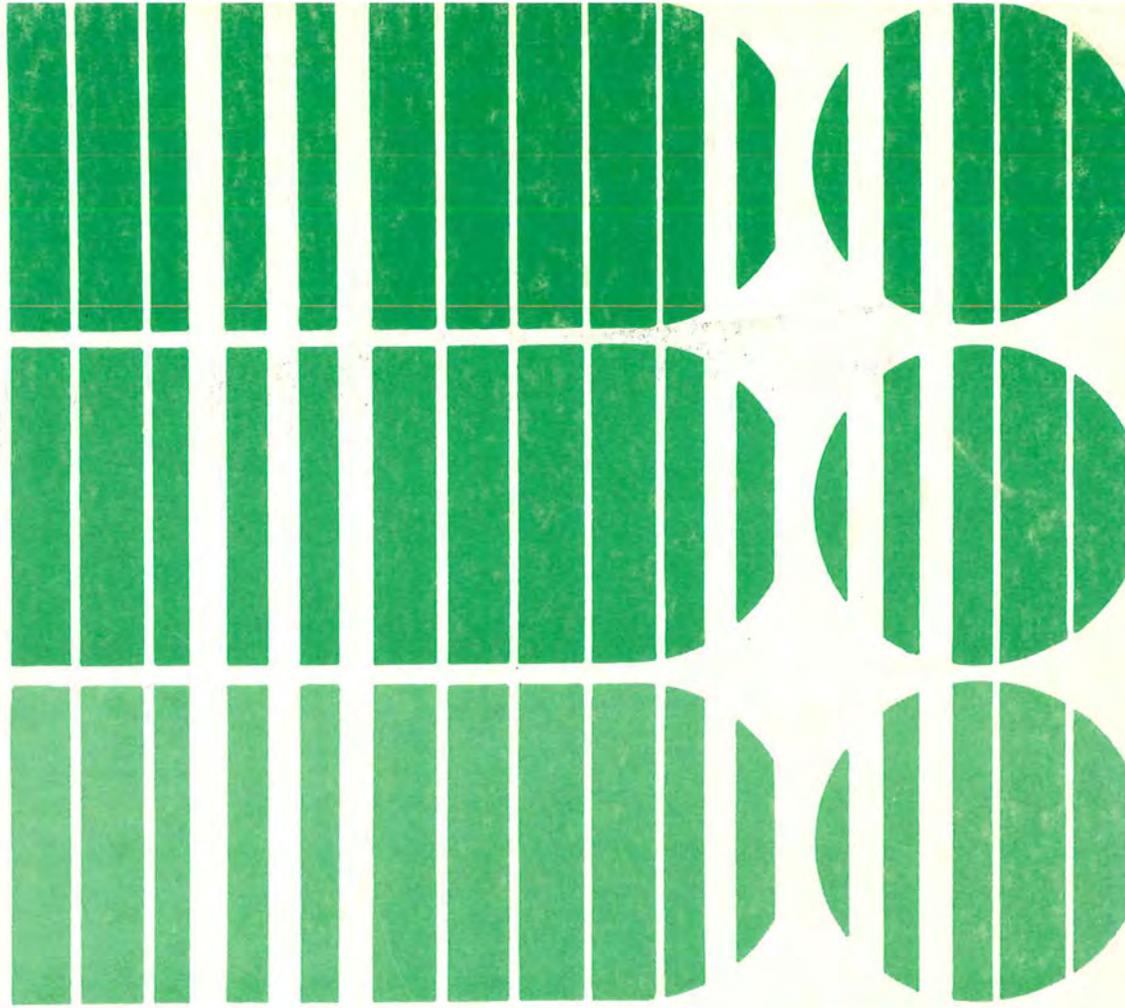
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# Your Neighbor's Kid

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report of the

governor's task force on  
foster care for children

Maine 1980

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JOSEPH E. BRENNAN  
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ON FOSTER CARE FOR CHILDREN

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MICHAEL R. PETIT  
Commissioner

September 2, 1980

Hon. Joseph E. Brennan  
Governor, State of Maine  
State House  
Augusta, ME 04333

Dear Governor Brennan:

On behalf of the Governor's Task Force on Foster Care for Children, I am pleased to present the final report of the Task Force.

During the past year, members of the Task Force and its three subcommittees have devoted countless hours to the task of understanding the present foster care system and its impact on Maine children. In addition, we have tried to develop recommendations for you, the Department of Human Services, the Legislature and the Judiciary that would allow a coordinated attack on the existing problems with foster care services.

Implementation of the Task Force's recommendations will involve a substantial commitment of time by the Department of Human Services and other individuals and agencies involved with foster care. Moreover, the Task Force concluded that a significant improvement in the quality of foster care will require some additional expenditure of public funds. We all realize the difficulty of obtaining additional money for social services in this time of scarcity. But foster children, who typically come into care because of parental abuse or neglect, are some of Maine's most vulnerable people. As you develop your Legislative program, we urge you to consider their needs.

The Task Force deeply appreciates your concern for Maine's foster children and their families. We hope this report will assist you in taking steps to improve the lives of these children.

Sincerely,  
*Thomas H. Allen*  
Thomas H. Allen  
Chairperson

THA:saj  
Enclosures



OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE

YOUR NEIGHBOR'S KID

Report of the  
Governor's Task Force on Foster Care for Children

Maine 1980

Thomas H. Allen, Chairperson

Barbara Sparks, Staff Assistant to the Task Force

Helaine Hornby, Consultant

## ACKNOWLEDGEMENTS

The Task Force wishes to thank the following individuals, whose competent assistance made this study possible:

Mary Collins, for her thorough and painstaking work on the foster care survey;

B.J. Hill and Wilma Bickford, for their patient and dedicated efforts throughout the year;

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# Part I



## STATEMENT OF COMMON COMMITMENT

During its investigation and deliberations, the Task Force has been guided by the following principles:

We agree to seek the most effective means by which the State of Maine can serve children who enter its care or custody when the adults normally responsible for their care cannot provide them with a minimal standard of attention and security.

We agree that each child has different needs and interests which must be recognized by those responsible for the child's care.

We agree that decisions by the State affecting the welfare of a child should be made only after consultation with the child and all of the responsible adults who are available and consideration of cultural factors.

We agree that when intervention to protect a child in jeopardy is necessary, the State should make all reasonable efforts to improve the child's existing relationships with members of his or her natural family, to avoid causing any deterioration of those relationships, and to preserve the child's heritage.

We agree that each act or policy of the State affecting a foster child should be measured against the best interests of the child, which, once intervention is necessary, become superior to but not exclusive of the interests of the adults normally responsible for the child's care.

## WHAT IS FOSTER CARE?

Daily, a portion of Maine's children are abused or neglected by the adults responsible for their care. Because these children are vulnerable, unable to protect themselves from mistreatment, Maine law grants to the State the power to protect them. If a child is in danger, and if this danger cannot be alleviated without removing the child from his or her home, the Department of Human Services has the power to petition the District Court for custody of the child. Then it must assign the job of caring for a child to someone else. Care provided for a child under the supervision of the State is known as foster care.

Nationally, foster care has been subject to intense public scrutiny in recent years. Foster care has saved many children from serious injury or even death. Yet, many foster children spend their formative years moving through a series of temporary homes without ever knowing the security of a permanent, stable family.

To serve the best interests of children, foster care must involve the cooperation of five parties: the child, the child's parents, the Department of Human Services (acting as a representative of the State), the foster care provider, and the court. To understand the foster care program in Maine, one must examine the role and characteristics of each.

### The Children

Approximately 2450 children are in the care or custody of the State of Maine. They range in age from infancy to adolescence; they represent a wide variety of ethnic, religious, and social backgrounds.

In most cases, Maine's foster children have been neglected by their parents. Neglect may mean deprivation of the necessities of life, such as food, clothing or shelter; or it may mean lack of adequate attention, nurturance, or supervision.

Foster children are often troubled: despite their traumatic histories, they are generally torn between loyalties to natural parents and the providers of foster care. Their fate is often determined by decisions of the District Court and the Department of Human Services. For many, foster care means uncertainty as to where they belong and who is responsible for meeting their physical and emotional needs. A profile of these children is presented below in "Who are Maine's foster children?"

### The Parents

The parents of Maine's foster children are often troubled individuals themselves. National research has shown that parents who abuse or neglect their children were often abused or neglected during their own childhoods. Thus, they are victims of a destructive cycle: mistreated children who grow up to produce another generation of mistreated children.

Abuse or neglect also is tied to family stress, either emotional, economic, or physical. Although everyone experiences stress, families with the fewest personal or economic resources are most vulnerable to it. While the affluent family can send its children to camp, hire a housekeeper, or take a vacation, the poor rarely have such opportunities. Thus, it is the children of Maine's lower income families who most frequently enter foster care.

When the court grants custody of a child to the State, parents relinquish their role as the child's legal guardian: it is the State, not the parent, who is responsible for the child's care and must give permission for medical treatment, driver's license, or marriage of a minor. However, until the parents' rights to the child have been formally terminated by the court (this requires a separate legal proceeding), they can visit and help plan for their child's future. The child can not be adopted unless parents consent or their rights have been legally terminated.

A relatively small but growing number of children are placed voluntarily by their parents in foster care. For these children, the role of their natural parent is somewhat different: although the Department is responsible for care of the child, the parents

maintain their role as legal guardian. Thus, they must make all important decisions and may end the foster care agreement at any time.

Many parents experience great pain when their children enter foster care. In a culture where being an effective adult is almost synonymous with being an adequate parent, relinquishing a child to the custody of the State is a personal failure. Individuals may react with shame or guilt, anger, belligerence, resignation, despair, denial or grief.

### The Department

Maine law delegates responsibility for the protection of children in danger of abuse or neglect to the Department of Human Services. In cases of severe danger to the child, the Department can provide short-term emergency services for up to 72 hours without permission of either the child's parents or the court. In other cases, when a child is in jeopardy, the Department's duty is to petition the District Court for legal custody. Once the Department becomes the child's legal guardian, it is totally responsible for his well-being.

Maine law provides broad guidelines for the Department's handling of foster care cases: it specifies, for example, that the Department must make its first priority the "reunification and rehabilitation" of the child's natural family; if this is not possible, it must work toward the "early establishment of permanent plans" for the child. Development of policies and procedures for carrying out these objectives, which are set in law, is the responsibility of the Department.

To carry out its mandate, the Department operates a central, administrative office in Augusta and 5 regional offices, located in Portland, Lewiston, Augusta, Bangor, and Houlton. When regional offices are responsible for large geographic areas, they also operate branch offices.

Social workers in regional and branch offices provide services to troubled families. Each region maintains both a Child Protective Services Unit and a Substitute Care Unit. Child Protective Services Units

give help to families in which child abuse or neglect is a problem, trying to resolve problems without removing the child.

If the child has to be taken away, he or she becomes the responsibility of the Substitute Care Unit. Those workers find a suitable foster care placement while working either to return the child home or find another permanent home.

Almost all of the work with foster children and their families is done by Department social workers. Their role is a complex one: they may provide counseling and support directly to children and to families, refer families to other social service agencies, coordinate all activities on behalf of a given child or family. Each region also employs a number of people who do not work directly with foster children, but who find and license new foster homes, among other tasks.

In each region, Department social workers report to their supervisors; supervisors, to the Assistant Regional Director; and Assistant Regional Director, to the Regional Director. The Regional Director is responsible for all aspects of the Department's program; the five Regional Directors report to the Deputy Commissioner of Social and Rehabilitation Services in Augusta, who reports to the Commissioner, who reports to the Governor.

Responsibility for administrative aspects of the foster care program is lodged with the Department's Central Office in Augusta, and specifically the Department's Bureau of Resource Development. Within the Bureau are six divisions, five of which exercise an impact on the foster care program. The Division of Child and Family Services is the administrative core; it has responsibility for setting objectives, determining policy, and providing guidance to the regions. Other divisions involved in the program's administration are: the Divisions of Licensing, Evaluation and Planning, Contracted Services, and Information Systems. Each division director reports to the head of the Bureau of Resource Development, who, in turn, reports to the Deputy Commissioner of Social and Rehabilitation Services.

An organizational chart of the Department is provided in the Appendix.

## The Foster Care Providers

The Department can be a parent to foster children in the legal sense only. To meet the daily needs of children, it must rely on a network of foster care providers. These individuals are paid to give the child room, board, nurturance and guidance. They may care for one child or many for a few days or many years.

Foster care providers have no legal rights to the children. Their role is primarily to encourage the child's physical and emotional development while the Department works to make permanent plans for the child.

Foster care may be provided in a number of settings:

- Emergency placements care for children in crisis with little advance notice and for relatively short periods of time. They may be either group shelters or families.
- Licensed foster families meet the State's requirements to board children. There are approximately 1000 licensed families in Maine, providing care for over half of Maine's foster children.
- Approved foster families do not meet all of the Department's licensing requirements, but may care for foster children who are relatives or are sixteen or over. There are currently 700 approved but unlicensed foster families.
- Group homes are community-based programs that provide care for 6 to 10 children; they may be owned and operated by a live-in couple or private social service agency.
- Residential treatment centers provide foster care for troubled children who cannot live in a community setting. They generally combine a therapeutic environment and specialized educational facilities. Maine has approximately 36 group homes and residential treatment centers.

## The Court

Maine law gives the District Court the power to act on all child welfare cases. Maine's Probate Courts have concurrent jurisdiction. There are 41 District and Probate Court judges in Maine.

The court is central to every foster child's life. Under Maine law, cases involving protection of children from parental abuse or neglect are heard in three stages: first, a preliminary protection proceeding, in which danger to the child must be established; second, a final protection proceeding in which the judge determines whether to grant full custody to the Department or select another disposition; and finally, if necessary, a hearing for termination of parental rights.

In the first phase of this process, the court issues a preliminary protection order. This order allows for removal of the child from his or her family. The order may be issued without the child's parents present, but law requires that a hearing be held within 10 days. At that hearing, the judge may either uphold the preliminary protection order or return the child home.

To allow the Department to assume full custody of a child, the court must also issue a final protection order. This order may be issued after a formal hearing is held and the judge finds "by a preponderance of the evidence" that the child is in "circumstances of jeopardy to his health or welfare."

When issuing a final protection order, the judge must also decide which of several dispositions is in the best interest of the child. The judge's choices are specified by law. They include, but are not limited to: giving custody of the child to the Department or other individual, returning the child to his or her parents with Departmental supervision or requiring the family to receive counseling or other help to resolve its problems.

Under Maine's new child welfare law, if a child is placed in foster care, the court is required to review its decision within 18 months of issuing the final protection order. At this time, the judge may either maintain the child in foster care or choose another of the dispositions specified in law.

Once children enter foster care on a final protection order, their cases may again be heard by the court for one of two reasons: if the child is to be returned home, the court must formally dismiss the child from state custody and transfer custody to parent or other guardian. If a child is to be freed for adoption, the court must hold a hearing to terminate parental rights. At this hearing, the court may find that the parent is unable or unwilling to adequately protect the child from jeopardy and that these circumstances are unlikely to change. The severing of parental rights to the child is necessary to clear the child for adoption.

## WHO ARE MAINE'S FOSTER CHILDREN?\*

### Sharon, age 15

Sharon is a pretty girl in a dark way. Her face only begins to portray the suffering. A stranger may not even notice; youth is on her side. At 15, Sharon could go either way--down the path of self-destruction she has tried so many times before or up the mountain to fulfillment, perhaps to a career, to marriage and family.

No one questions her mental abilities. Once she was isolated from destructive pressures and began studying she pulled her grades by 30 points. But the future for Sharon is uncertain. No one knows how deep are the scars inflicted by her father, a man with severe emotional problems. And then, can she ever recover from the nightmare of her first two years in state custody?

Sharon is one of Maine's foster children. She has been living with her current foster family for six months. She found this family herself while a patient in a mental ward. The family would come to visit another patient with whom Sharon liked to read the Bible. When they learned that Sharon had no place to go, they applied to become foster parents.

Sharon's problems started when she was a toddler. She always argued with her father who blames her for locking her brother in a refrigerator while playing a childhood game of hide and seek. This incident resulted in brain damage to the boy and serious problems between Sharon and her father.

Emotional abuse mounted over the years until Sharon could no longer stand living at home. At 13 she tried to move to a friend's house but no one would take her. "No one really cared. So I just decided I didn't care anymore either." She attempted suicide. While the attempt failed, she wound up in the hospital for nine days. "I told them I'd leave the hospital but that I wouldn't go home. I'd go to a foster home."

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\*These stories come from interviews with foster children conducted as a part of the Task Force's study. Names have been changed to protect the children's identities.

Sharon is one of approximately 800 children who become foster children voluntarily. She was not removed by the State. After her suicide attempt her father signed the papers for her to be in care. However, her troubles did not stop there.

"I was raped by my first foster father. He kept playing with my mind, saying I would have to go back home. He was too young to be a foster parent, 27 or 28. I could never understand why they were foster parents. All the State would have to do is go into the place and they would know. The atmosphere was just terrible. He'd throw chairs at his wife and yell all the time." Not knowing any better, Sharon did not ask to be moved.

The foster parents went to a meeting about her and when they came back they told her to pack up and leave. "I said, 'well, wait a minute,' and went without my clothes. They moved me to another foster home and I ran away the same night. The social worker just shoved me in the house and said these are your foster parents. They didn't give me background or anything. They do that every time, every foster home. I didn't even know their names. I was just scared, lost. I had no one to turn to."

A police officer picked Sharon up five miles away and took her back to the foster home. Sharon reported making a good adjustment there "until this girl moved in who was on pot. I smoke and drank with her. We'd come home late, get into trouble." The situation deteriorated and Sharon tried suicide again. She was placed in a mental hospital, then a regimented group home facility.

Sharon's memories of the facility are less than fond. "To keep you out of trouble, they keep you going all the time--you swim for 3 hours, jog for 3 miles, ride a bike 14 miles. It drives you crazy. You get so run down that you get depressed after a while. There's more drugs there than there is on the street. Also, they didn't tell you when you can leave. They don't let you leave; there's no way out."

Sharon tried once again to take her life. For more than two months she was in a psychiatric ward where she met her current foster parents.

Sharon is ambivalent about her future. She wants desperately to be able to go home, at least for visits,

which have been prohibited so far. She misses her mother and siblings badly and says of her father, "If he had accepted help in the first place, I might not have had to leave home." Sharon says, "I'm supposed to stay here until I'm 18 if things don't work out at home." Because the Department knows how much Sharon would like to go home they are working with her family. Counselors and psychiatrists are on the case.

Two weeks after meeting Sharon the interviewer returned with some more questions. She was extremely agitated and would not talk. The reason she gave: The "State" was making her see her father that afternoon. "He is not my family. The State treats you like a pig. I hate 'em all so bad."

#### Sam, age 14

Sam was 5-1/2 when he first entered foster care. As far as he knows, he and his brother were fighting a lot and they were too much for his mother, who was going through separation and divorce. She wanted them to be placed in foster care.

Sam has been in and out of care for the past nine years. His grandfather took him for a while, and then he moved back home where his grandfather continued to play a major role in his upbringing, paying the bills and making decisions. Then his grandfather died and Sam felt lost.

During his three years back home the family moved several times. He and his brother continued to fight and his mother again requested that they be placed in foster care. Sam was then nine. Although his mother changed her mind, Sam was hit by a bus and the Department, convinced he was being neglected, took custody. He stayed 3-1/2 years at a group home for boys but refused to go back there after a visit with his mother. His social worker allowed him to stay home, although custody was not given to his mother. Then he got into trouble with the police and the judge placed him on probation with the stipulation that he be placed in a more structured environment. He has been living in a group home for the past four or five months.

Sam talks affectionately about his family. He says he loves his mother and knows that she loves him. He describes her as the kind of person who gathers up a carload of neighborhood people and takes them to the

beach or somewhere "because otherwise they don't get to do things." He feels his mother relies on him when he is at home.

Sam has spent almost half his fourteen years in state custody. Most of that time he was away from home, but he has never had another family. He lived only in one foster home for less than a year. Adoption has never been considered. He feels living away from home may be the best thing for him. He is not as likely to get into trouble; there is not enough to do at home. He feels better off than his brother who has spent more time at home. However, he has thought at times that it might be nice to live with other family members rather than group homes.

Sam feels that he has had many advantages from foster care--things he has been able to do and have. He says other kids in the neighborhood "get the impression that my family is rich." That's because his experience in group homes has been similar to boys who have attended summer camp. He knows how to ride horseback, play tennis, paddle a canoe, and he is good at all kinds of sports. He is tall, handsome, with the build of an athlete. He is self-confident, sure that he will go to college and make lots of money.

He has always done well in school, describes himself as a good student. After college he may join the Air Force, which he says will then pay for additional education.

He is not bothered by being a foster child. "I don't talk about it a lot. I'm not hiding it or anything. It's just no big deal." Sam feels foster children should be listened to and have more say about their lives. If he were investigating foster care Sam would take each kid to live with him for a week and let him talk. "Instead of just talking with the foster family, talk with the kids more." He thinks social workers should have much more contact with children, at least weekly.

Sam feels foster care is essentially a "protection for kids and their parents." He says for him long-term care was a "better option" than being at home or adopted. "Kids should not be forced to get adopted. It should happen over a period of time." If forced, kids might do anything, "burn the house down, possibly stab someone, the parents, anything could happen..."

Sue, age 17

Sue is almost 18 and is counting every day until she can get out of foster care. "I don't even like the idea of being a foster child. I feel trapped. I mean, ever since I really realized that I can't go anywhere, I can't leave the state without getting permission, I can't do anything . . . I just didn't like the idea that all of a sudden they could move me around as if I was just a checker on a board--so I said, no, I won't play your game." She says about being a foster child, "It was like I had an extra nose or something for a long time. I'm different."

Sue seems mature for her age. She points to a picture of herself a few years ago when she weighed 185. "I was biig, no one pushed me around!" She has lost a lot of weight. She feels good about herself. She has chosen to live with her sister (foster sister really--although she does not use the word) and her sister's boyfriend for the time being. She has enrolled in the job corps and will be leaving town in a few weeks with a friend.

Sue was taken into state custody as an infant, along with a brother, a year older. She is one of the 600 children in Maine who have been in foster care for more than 10 years. She is not clear about the reasons. "I've heard so many stories. I don't know which one to believe anymore." She feels the following is probably true. Her mother was young, unmarried and had two children. She was living with her sister who was "ripping off" most of the AFDC check. Sue got sick and was put into the hospital, suffering from malnutrition and frostbite. "They wouldn't give me back to her." She has never seen her brother, doesn't know where he is. "I've asked questions but nobody ever answers me. I'll just do it when I get 18. I'll start looking for him, myself." She knows he has been adopted. "I just want to know where he is."

She didn't even learn that she was a foster child until she was 10. Before that she only knew she had a different last name. "I used to get called 'foster baby' all the time. I could never figure out why. It used to hurt my feelings 'cause I didn't know what they were talking about. I thought they were calling me dirty names. And then one day my mother (foster) finally just had to tell me. I was a terrible child after that . . . In a way I don't think they should have ever told me but I would have found out eventually."

She didn't know anything about her real mother until she was 12 when her mother just walked in one day. "I laughed when I saw her. She was different; she wore a lot of make up . . . I hated her. I can take her or leave her now."

She spent the summer with her mother at 15, "I didn't like her at all." Although she was disappointed, "I learned more about my background. I know what I don't want to be like. She found out I wasn't quite what she was looking for either." About her father, "he doesn't know I exist."

After that summer, Sue started school in the fall, dropped out, went to an alternative school, worked some, spent the next summer with a boyfriend, went back to her foster home, moved to New Hampshire with a boyfriend, lived three months with another "stepmother" (her choice of words), went back to her foster home, and stayed just about anywhere until she eventually moved in with her step-sister.

She got into trouble for leaving the State without notifying her social worker and returned to find a police bulletin out on her. She tried counseling for a time, under protest, but dropped out when her foster mother wouldn't go.

Sue speaks about her foster family only with reluctance. She has ill feelings toward her foster mother. "She kept me in the 'cage'--a fenced school yard--long after others were out on the street so she could watch me." She drank a lot. She used to "bite me. I can't stand being bitten particularly by someone who is supposed to be your mother. We would fight a lot."

By the time she was 15, all her connections were lost. She was disappointed in her own family; the connection with her foster family was breaking rapidly. "There is no love at all, not as far as she (foster mother), is concerned. I've put her through a lot." Nor did Sue like her social worker--"too pushy." She needed someone who would give her more "leeway," a "younger one." She says in dealing with children like herself the State must "let them make their own decisions, then talk with someone about it." Who is Sue closest to in life? "Nobody . . . I'm all by myself."

Sue doesn't know why she was never adopted. Would she have preferred to be? "No, no because then I would never have found out who my mother was . . . there was always a chance."

### Maine's Foster Children

Maine's foster children are as different from one another as any other children. Generalizing about their characteristics in no way is intended to minimize their differences. They range in age from infants to 21-year-olds. While the number fluctuates, there are about 2450 in the care or custody of the State of Maine. Slightly more than half (52%) are male. The overwhelming majority, 91%, are white; 3% are black and 2% are Native American.

### Age of Children

The median age of foster children is escalating; in 1960 it was just over 12 whereas now it is 14. Similarly, the number of teenagers in foster care has been increasing over the years. Whereas 20 years ago 46% were age 13 or over, now 56% are teenagers. Specific problems of teenagers in care will be discussed later in this report.

Although 22% enter care as teenagers, a far greater number are only infants or toddlers when they first become foster children. Forty-nine percent of the children in care were only between the ages of 0 and 5 when they started. Now only 16% are between 0 and 5, which indicates that many have grown into their school-age years from infancy in foster care. Twenty-nine percent were between the ages of six and 12 when they entered compared to 28% who are that age now. Twenty-two percent were more than twelve upon entering and 56% are that old now.

### Reasons for Entering Care

Neglect by the parents, be it physical or emotional, is the most prevalent reason for Maine children being in foster care. For 43% of the children, social workers give neglect as a reason for

care. Physical abuse, however, is stated only 17% of the time, placing it sixth on the list of reasons for care. Next to neglect, mental illness and alcohol or drug addiction are the most common reasons for children becoming the state's responsibility.

### Time in Care

While approximately 750 children enter and exit care over the course of one year, a large residual number of children have been in care for many, many years. Of the open cases in November, 1979, 25% of the children had been in care for ten years or more. An additional 18% have been there six to nine years and 40% two to five years.

### Movement From Home to Home

Over their years in care, Maine's foster children tend to live in several homes. Twenty-seven percent have lived in only one home. But 36% have lived in two or three homes, 16% in four or five, 15% in six to ten and 6% in 11 or more. Children can move from homes for a number of reasons, not all negative. For 12%, for example, the move from the last home was a "planned temporary" move. In many cases, about 12%, the child asks to be moved. In a similar number of cases the foster parents request the child to be moved.

Sometimes children stay in a single foster home for many years. More than one-fifth of the children have been in their present placement for five years or more. An additional 11% have lived there for three to five years. On the other hand, 34% have been at their current placement for one year or less.

### Range of Placements

Most people think of foster children living in foster homes. In reality only 53% of the children currently reside in licensed foster homes. The next largest group, 20%, are living in relative's homes or their own homes. An additional 8% live in group homes or residential centers and 2% live in youth centers or

jail. Many of the older children, 10% of all children in care, live either in "approved" homes or independently. A small group, 3%, were in adoptive homes.

### Case Plan Objectives

The Task Force found that the largest group of foster children, 57%, have long-term foster care or self care as their program objective. This means that the social worker assigned to the case plans to keep the child in foster care until he or she grows up and can live independently. The next largest group, 26%, are supposed to return home and 15% have the goal of adoption. (No objective was given for 2%.)

Social workers say that 75% of the foster children are either in their permanent placement now or will be in the next six months. Of these, the largest group, 30%, are reported to have a stable long-term foster placement and are likely to remain there; 15% are expected to return home; 12% to be adopted; 10% to live with a neighbor, friend or relative and 8% are expected to live independently.

### Special Needs

Many of Maine's foster children have either physical or emotional problems that require special attention. The largest among these is emotional disturbance (18% of the children) and "acting-out" behavior, characterized by running away or truancy (18%). About 6% have a physical disability and 9% are mildly or moderately retarded. These children need additional therapeutic services, employment and transportation services, educational services, in-home services (counseling, homemaking) and monetary resources for college and vocational education.

## KEY QUESTIONS

QUESTION: Can we do more to prevent children from entering foster care?

ANSWER: Absolutely. Foster care must be viewed truly as a last resort.

- FACT:
- Foster care could be prevented for about 300 children if other services were available.
  - Parental neglect, followed by mental illness and alcohol or drug addiction are the major reasons children enter foster care.
  - Federal government provides Maine with unlimited funds to maintain children in foster care but limited support to keep them at home.

QUESTION: What quality of care does the state of Maine provide for its foster children?

ANSWER: Mixed. Sometimes excellent, often poor.

- FACT:
- Foster families have income and education equivalent to other Maine families.
  - Over half have had no training; over half want more training.
  - Board costs and clothing allowance do not cover out-of-pocket expenses for foster children.
  - Some foster children report abuse in their foster homes and want more scrutiny of the homes.

- 37% of the children have had 4 or more placements.
- 40% of foster children have had 4 to 10 social workers.
- Maine has no provisions for administrative or citizen's review of the cases of children in foster care.

QUESTION: Do Maine's foster placements match the needs of the population it serves?

ANSWER: No. Maine lacks placements for teenagers, children with behavior problems, and minority children.

- FACT:
- More than half of Maine's foster children, 56%, are teenagers, and their numbers are growing.
  - Teenagers do not adjust as well to foster care as younger children; Department workers acknowledge that at least 14% have unsatisfactory placements.
  - There is a mismatch between the number of teenagers in foster care (1,400) and the number of homes willing to take them (200).
  - Twice as many children have emotional problems as there are families willing to care for them.
  - There are 50 Native American foster children and only 15 licensed Native American foster parents; 75 black foster children and 8 licensed black foster parents.

QUESTION: Do children leave foster care as quickly as possible to obtain stable, permanent homes?

ANSWER: Generally not. Poor planning, unwillingness to make decisions and conservative interpretations of the law keep children in custody too long.

- FACT:
- 25% of Maine's foster children have been in care 10 years or more; 83% have been in care for 2 years or more.
  - The longer a child is in foster care, the less likely he or she is to leave.
  - For 42% of Maine's foster children, the current program objective is long-term foster care.
  - The Department of Human Services finalized 61 adoptions in 1979.

QUESTION: Do working conditions help or hurt the Department's ability to serve foster children?

ANSWER: Hurt. Discriminatory hiring practices, large caseloads, and inadequate training for workers are a disservice to Maine's foster children.

- FACT:
- Personnel procedures and collective bargaining agreements prevent the Department from hiring the best qualified people if they are not already state employees.
  - State social workers need not meet minimum professional standards set for private practice.
  - Maine's caseloads exceed national standards.
  - 35% of the social workers spend 40% of their time or more on paperwork.

- 36% of Department staff feel they do not have sufficient training to do their job.

QUESTION: What effect do laws, Department policies, and court procedures have on the lives of foster children?

ANSWER: Usually negative. Legal delays, disorganized policies and adversary procedures often work against the best interests of children.

- FACT:
- 48% of the workers need more help from the Department's lawyers to move children out of foster care.
  - 56% of Department personnel think foster care policies and procedures are unclear.
  - 64% of foster parents believe the Department needs different or clearer policies defining the rights of foster and natural parents.
  - 42% of the judges think adversary court procedures do not result in the best outcome for the child.

## TASK FORCE PROCESS

At a press conference in August, 1979, Governor Joseph E. Brennan announced "major planning initiatives to address three of the most serious and complex human services issues in the state": foster care for children, maternal and child health services, and long term care for adults. In September he convened Task Forces for each, composed primarily of private citizens; issued Executive Orders; and requested recommendations by Labor Day, 1980. This report concerns the work of the people who investigated foster care for children.

The Governor appointed 25 people to serve on the Governor's Task Force on Foster Care for Children. Thomas H. Allen, a Portland attorney, was named chairman. Representatives from each segment of the population affected by foster care were invited to join: former foster children, legislators, judges, foster parents, private agency representatives, state administrators and social workers. Many other citizens also participated in the work of each of the three Task Force subcommittees.

The Task Force's mandate, as established by Executive Order, was to conduct a comprehensive review of foster care services in Maine using standards developed by professional organizations; to carry out a survey of foster homes and the children currently residing in them; to focus special attention on adolescents; and to develop a plan for increasing adoptions. The Governor further requested that the Task Force build public awareness of the problems and issues surrounding foster care, take into account information gathered through public hearings, and develop a plan for both administrative and legislative action.

Staff support for the Task Force was provided by the State of Maine Department of Human Services through its Office of Special Projects and by the University of Southern Maine through the Human Services Development Institute. Both the Department and the University received financial support from the Children's Bureau, Department of Health and Human Services, Washington, D.C. to assist the Governor's Task Force.

The Task Force spent two months, September and October, 1979, orienting itself to the foster care program and determining a course of action for its investigations. It decided to spend the next six months, through April 1980, collecting information, both as a full Task Force and through subcommittees, and the balance of the time formulating recommendations and sending them to the public for comment before writing its final plan.

Before it was through, the Task Force heard from literally thousands of people. Four major methods were used to collect information: a series of public hearings; a comprehensive survey conducted by the University of Southern Maine; talks by national experts; and investigations by individual subcommittee members through interviews with administrators, visits with public and private social workers, and reading hundreds of documents (policies, memos, case plans). Each of the four is discussed below.

#### Public Hearings

Both the full Task Force and individual subcommittees held hearings in which people were invited to testify. In all, six hearings spanning the state from Portland to Presque Isle were conducted during the information collection phase; three more were held for the public to respond to preliminary recommendations.

One hearing was designated for Department employees only in which all five regions were represented. The rest included people familiar with every phase of the program: parents of children in care; foster children themselves; foster families; nurses, psychologists, adoptive parents; physicians; group home operators; teachers; policemen; judges; juvenile intake workers; people wishing to adopt; social workers; and attorneys. Hearings ran from 9:00 a.m. to 5:00 p.m. with about three to four people speaking per hour. Written testimony also was accepted and a bound volume of submitted testimony is available from the Office of Special Projects, Department of Human Services.

## Comprehensive Survey

Throughout this report reference is made to a survey conducted for the Task Force by the Human Services Development Institute. The Survey consisted of four components:

Child and Family Study - - Information on 500 children in foster care during the first quarter of 1980 including age and sex, reason for care, placement experience, resource needs, and permanency plans; independent review of 40 of these cases by Central Office administrators; personal in-depth interviews with 12 of these children.

Foster Placement Study - - Written questionnaires to every foster family in the State of Maine, every ex-foster family, every non-licensed foster home, every adoptive home and every group home. In all, 2059 questionnaires were sent and 1234 returned for a 60% response rate.

Staff Study - - Written questionnaires to every clerical, direct service and administrative staff person in the Department of Human Services who works in the Foster Care program. In this category, 214 questionnaires were sent and 143 returned for a 67% response rate.

Judiciary Study - - Written questionnaires to every Probate and District Court Judge in the State of Maine. In all, 41 were sent and 26 returned for a 63% response rate.

## National Experts

Invited to address the Task Force were Mary Lee Allen, co-author of Children Without Homes, a major study produced by the Children's Defense Fund in Washington, D.C., and Jack Ahearn, field consultant with Oregon's national pilot project, "Freeing Children for Permanent Placement." Also, several Task Force members attended a session in Maine featuring Kathryn Donley, national adoption expert associated with New York Spaulding for Children.

## Subcommittee Investigations

Three Task Force subcommittees pursued their own individual and collective data gathering methods. The Subcommittees on Administration, Program Delivery and Placement and Adoption Resources talked privately with social workers, met with administrators at Central and Regional Office levels, and talked with foster parent associations and individual foster parents. They also attended legislative hearings, read all program policies and reviewed written comments by social workers, foster parents, and judges throughout the State.

Once information was received from each of these sources, subcommittees began shaping recommendations that would be submitted to the full Task Force. In April, the subcommittees disbanded and the Task Force began meeting every other week in full day sessions to review the first draft of each chapter containing findings and recommendations. Chapters were rewritten and reviewed a second time prior to public hearings and finalized thereafter.

Through this process dedicated citizens donated thousands of hours in an effort to improve the lot of Maine's foster children.



## Part II



## GENERAL FINDINGS

The following findings represent the Task Force's view of some of the central questions or controversies which underlie the removal of children from their families. The Task Force's more specific findings and recommendations are based upon these findings.

GENERAL FINDING 1: FOSTER CARE BRINGS INTO FOCUS THE INHERENT CONFLICT BETWEEN THE RIGHT OF THE PARENT TO RAISE HIS OR HER FAMILY, FREE FROM GOVERNMENTAL INTERVENTION, AND THE RIGHT OF THE CHILD TO GROW UP IN A STABLE, SAFE ENVIRONMENT.

Historically, children have been regarded as the property of the adults who bear and raise them; only relatively recently has the adult world conceded that children are, in fact, individuals - and, as such, have needs, wishes, and rights of their own. But what are a child's rights? At what age can a child make independent decisions? Who knows what's best for a child?

These questions are ordinarily negotiated within the family. In some cases, children learn to subordinate their needs to those of their parents; in others, parents concede their desires to satisfy their children. In most, a form of give-and-take emerges, a context in which children learn, grow, and prepare to meet the world as independent adults.

When children are abused or neglected by their parents, the questions of needs and rights are magnified. The Task Force believes that parents must have the right to raise their children free from the unnecessary intrusions of government; yet children have the right to grow up in an environment that is safe, stable, and caring. In short, the rights of the parent are pitted against the rights of the child. Resolution is the sober responsibility of the State. The Task Force endorses the notion of balance but recognizes a grim reality: in some cases, compromise is

unrealistic; interests are so diverse that there must be a winner and a loser. When compromise is not possible, the best interests of the child must supercede the interests of his or her parents.

GENERAL FINDING 2: ANY DISRUPTION OF A CHILD'S RELATIONSHIPS WITH THE CARING ADULTS IN HIS OR HER LIFE CAUSES THE CHILD HARM.

The child lives in a world filled with people, objects, and events that are often bigger and more powerful than he or she is. From infancy onward, the child looks for order in a world that is sometimes scary and uncontrollable.

For most children, adults provide stability and safety. Whether or not they give care considered sufficient by the community, they are often the one predictable, familiar aspect of a child's environment. And the safety of the known (even in the form of an abusive or neglectful parent) is usually preferable to the terrors of the unknown.

Removing a child raises a critical question. When are the risks of abuse or neglect at home so great that they outweigh the damage done by removal? No easy answers exist. Solutions must be found on a case-by-case basis.

In examining this question, the Task Force adopted two principles: first, when governmental intervention is necessary to protect a child from harm, the State should use the least disruptive form of intervention. Before removing a child, all options for working with the family while the child remains home must be exhausted. This principle involves a commitment of dollars, time, and resources to home-based services for troubled families.

Second, if removal is necessary, the State should move quickly to establish permanent plans for the child. Disruptions of a child's relationships are traumatic. When they happen, the child must be given every opportunity to establish permanent bonds with other adults.

Children in foster care are often deprived of this opportunity. Because of the temporary nature of the placement, they become confused about where and to whom their primary attachments belong. In fact, their allegiances are often painfully split: they remain loyal to the parent who gave them life; they feel affection for the foster parent who presently nurtures them and, in some cases, they are asked to bond to an adoptive family who will care for them in the future.

Children are resilient. With the right help, wounds can heal and new relationships be established. But for this healing process to occur, the adults responsible for removing the child must move deftly and purposefully. They must see that the child is either swiftly reunited with his family or given the opportunity to mourn this loss and move toward more positive relationships.

GENERAL FINDING 3: FOSTER CHILDREN ARE NOT A HOMOGENEOUS GROUP. NO SOLUTIONS EXIST THAT ARE RIGHT FOR EACH CHILD.

Maine's foster children are a diverse group. No single plan for them--be it adoption, return home, long-term foster care, or any other--is inherently bad or good; a plan's merit must be measured against the needs of the individual child for whom it is proposed.

Although all children are unique, different strategies are generally appropriate for different groups. Children who enter care as teenagers often have different problems, needs, and objectives than younger children. For the former, the most crucial goal may be preparation to live as self-sufficient adults. Because such youth may have strong ties to their own families, or because they may have had too many bad experiences with families to try again, developing permanent new family ties is often inappropriate. On the other hand, for children who enter foster care at a younger age, the question of family ties may be paramount: most need the security of a permanent family who will stand by them through childhood and adolescence and will provide roots as they go out into the world.

A similar dichotomy exists between the needs of those who have recently entered foster care and those in care for years. For children entering care recently, it is vital that every effort be made to make foster care a short-term experience. For those who have developed strong ties to their foster parents over the years, any move, whether return home or adoption, may be detrimental.

The key lies largely in careful, individualized planning. It is the one common thread that runs throughout the varied histories of Maine's foster children.

Furthermore, the Task Force concluded that such planning is far too great a responsibility to be undertaken unilaterally. It requires the participation of all the adults responsible for the child's care: the Department of Human Services, the child's biological parents, foster parents and significant others. If the child is old enough he or she should take part as well.

Finally, hand-in-hand with planning, is the need for regular review and reassessment of plans for children. They grow and change constantly. An effective plan today may be ineffective tomorrow. For this reason, laws, policies, procedures, and practices must not deter, but rather encourage the courts, the family, and the Department to pursue the best alternative for every child in care.

GENERAL FINDING 4: IMPROVING THE LIVES OF FOSTER CHILDREN WILL REQUIRE THE COMBINED EFFORTS OF THE GOVERNOR, THE LEGISLATURE, THE COURTS, THE DEPARTMENT OF HUMAN SERVICES, AND THE CITIZENS OF MAINE.

Throughout its investigations, the Task Force was impressed by the outpouring of public interest in the plight of Maine's foster children and their families. Without a doubt, the suffering of children is an emotion-laden issue. Yet to effect positive changes will require commitment and energy from all segments of Maine's population; it will also take hard work, time, and money.

To bemoan the fate of foster children without committing the necessary resources, both human and economic, to alleviate their pain is a cruel charade. The Task Force, therefore, challenges the citizens of Maine to undertake a broadbased effort to improve the lives of its foster children. Such an effort must combine the skills, support, and strengths of the Executive Branch of state government, the judiciary, the Department of Human Services and the citizens of Maine; the failure of one will subvert the success of the whole.

It is the responsibility of all citizens to guarantee that Maine's foster children will never be her forgotten children.



## CHILDREN ENTERING FOSTER CARE

*"I was eating a peanut butter and jelly sandwich and all of a sudden I saw my grandmother and my mother come sobbing into the house. 'Susie, you got to go, boohoo, boohoo.' And I said, 'What!' And she said, 'You got to go, you can't live with me,' and I said, 'What!' So the next day here comes the social workers, tromping into the house. My mother started screaming and crying. They packed my clothes.*

*"I was scared to death because I didn't know what was happening. I didn't know what foster care was. I thought I was taken away because I wasn't acting right and my grandmother wasn't disciplining me right. Then I thought they took me away just for the fun of it. I didn't think about my mother having a drinking problem."*

...interview with a foster child, age 11.



FINDING 1: Many children enter State custody because preventive or protective services which could keep their families together are limited or unavailable.

The foster care system is designed to protect children from abuse and neglect. Under Maine law, the State has the right and the duty to remove a child from his or her family only when the risk of harm is so great that the child can no longer safely remain at home. Thus, foster care is a last resort: removing a child from home may be undertaken only when all other options for resolving family difficulties have been tried and have failed.

To evaluate Maine's foster care system, one must first examine the steps taken to prevent children from entering foster care. Two questions are relevant:

- (1) What services are available to help prevent children from being abused and neglected by their parents?
- (2) When children are being abused or neglected, what services are available to protect them without actually removing them from their homes?

The question of how best to prevent child abuse and neglect is difficult; no easy solutions exist. According to Dr. Eli Newburger, child abuse and neglect is "the final, tragic expression of a culture which deprives many young families of their needs for real service--such as health care, teaching about child development, day care, and adequate housing . . .<sup>1</sup> Although child abuse occurs at all levels of society, it is the families with the fewest financial and social resources that are the most vulnerable to the effects of stress. While the affluent can cushion troubled times by hiring a housekeeper, sending children to camp, or taking a vacation, the poor cannot. Therefore, a great many, if not most, foster children come from very low income homes with only one parent present. A 1976 study in Cumberland County revealed that 81% of foster children come from families eligible for or actually receiving AFDC at the time of referral.<sup>2</sup> To reduce child abuse and neglect, preventive services must be specifically directed at children and families at risk.

## Prevention of Child Abuse and Neglect: A Community Responsibility

Abused and neglected children are almost always powerless to prevent their own mistreatment. As a result, prevention depends upon community involvement. In 1978 the National Committee for the Prevention of Child Abuse called for "a strategy for child abuse prevention--a comprehensive community-based set of prevention programs."<sup>3</sup> Comprehensive prevention must begin with prenatal education to prepare individuals for the job of parenting, include parent effectiveness training for childhood problems, and end with education for adolescents in the skills needed to be effective adults and potential parents.

The Committee emphasized that each community must develop a "community-wide child abuse prevention coordinating body." Such groups should encourage the implementation of prevention programs and educate the public about the causes and effects of child abuse.<sup>4</sup>

In Maine, local efforts to prevent child abuse and neglect are being made, but they are not sufficiently comprehensive or widespread. Several communities have organized Child Abuse and Neglect Councils. Many schools and hospitals offer parent education and family life programs, and civic groups sponsor some community education projects on the problem. But an effective state-wide prevention effort depends initially on the development of child abuse and neglect councils covering every county.

## Protection of Children in Jeopardy: The Department's Responsibility

The Department of Human Services is responsible for protecting children who are being abused or neglected by their parents or are in serious danger of abuse or neglect. This task is assigned to the Child Protective Services Units located in the Department's 5 regional offices and 7 branch offices. Protective Services workers investigate complaints of child abuse and neglect. When complaints are validated, they are expected to work with the family to try to resolve this problem.

Identifying children in jeopardy requires the combined efforts of the public and private sectors. Through its Children's Emergency Services program the Department provides a state-wide 24-hour toll-free telephone number for reporting cases of child abuse and neglect. Many referrals to Protective Services workers come from private citizens through this hotline.

While citizens are urged to report suspected cases of abuse and neglect voluntarily, many Maine professionals are legally required to do so. Maine's child welfare statutes obligate doctors, teachers, child care workers, home health aides, and certain others to inform the Department of suspected cases. Since its initiation, the Children's Emergency Services hotline has led to a dramatic increase in the number of reported cases.<sup>5</sup> Private citizens and professionals reported approximately 4,000 new cases of child abuse or neglect in 1979.

Reported cases are investigated by Protective Services workers; if the claims are validated, the workers try first to assist the family in reducing jeopardy while the child remains at home. Protective Services staff typically counsel families themselves, or refer them to other agencies for special services.

Many of these services are available through Title XX contracts between the Bureau of Resource Development and private agencies. For the 1980 fiscal year Maine received \$12.5 million in federal funds under Title XX of the Social Security Act to serve approximately 45,361 clients in the following areas:

- services for the blind
- camperships
- day care
- nutrition services
- family planning
- homemaker services
- mental health services
- mental retardation services
- transportation services, and
- supportive services (formerly called "youth services").<sup>6</sup>

Agencies which provide these services do not typically serve only families in which abuse or neglect is a problem. Such families represent only a portion of those in need. The extent to which the Department should require Title XX services to be used for families of children in jeopardy is addressed below.

Given the existing level of services, Protective Services workers appear to be succeeding in keeping many children out of foster care. In Region I (Cumberland and York counties) during 1979 only 13% of the cases of child abuse and neglect validated by the Child Protective Services Unit resulted in children being placed in the care or custody of the Department. All other cases were addressed without removal of the child from home.

#### Removal from the Home: Voluntary Care or Court-Ordered Custody

If a family, with the help of the Department, cannot take steps to change the circumstances which endanger the child, then the child must be moved to a safer environment. There are two options:

- (1) Voluntary foster care: Under this program the Department provides temporary care for the child, but the parent retains legal custody. The parent can terminate the agreement at any time. Voluntary care may be under the Department's "V-2" program, which provides out-of-home care for up to 6 months, or the "V-8" program, which allows such care for over 6 months. Most voluntary care is paid for through state appropriations or limited federal funds.
- (2) Court-ordered custody: If the parent refuses to allow voluntary care, the Department can petition the District Court for an order giving the Department legal custody of the child. If granted, the Department can place the child in a foster home or other alternative living situation. The child can neither be returned to the custody of his or her family nor freed for adoption without further court action. A large part of the cost of caring for a child in custody is paid by the federal government through AFDC funds, which are unlimited.

Department personnel report a significant rise in recent years in requests for short-term voluntary care for children. Because children in voluntary care are still in the custody of their parents, these placements are less disruptive to the child's relationship with his or her family than are court-ordered placements. But voluntary care programs are not adequately funded. Some Department workers report that voluntary care funds run out before the end of each fiscal quarter. Some have grown accustomed to not using these programs because money is often not available. Consequently, workers file petitions for court-ordered custody when the parents would have voluntarily agreed to place their child in care.

#### The Need for Preventive and Protective Services

From the testimony of citizens at public hearings the Task Force concluded that available preventive and protective services are inadequate. One problem is that such services are simply unavailable in many parts of the State. Another is that existing services may be either inaccessible to or inappropriate for the families with whom the Department is working. Several services which could help prevent children from entering foster care were requested frequently at public hearings:

- Transportation: Families in which child abuse and neglect occurs are often poor and psychologically isolated. They often have few friends and rarely seek help from service agencies voluntarily. Inadequate public transportation reinforces this isolation; without transportation such routine tasks as going to the doctor, getting to work, or attending a class become major problems.
- Respite care: Children are abused and neglected most often when their parents are under severe stress. Stress may be caused either by an acute crisis (divorce, death of a family member) or a chronic situation (too many mouths to feed and not enough money, for example). Respite care offers parents a

"breather." Many citizens testified that care for an afternoon, a weekend, or a week might prevent the escalation of a family crisis into an emergency requiring a more lengthy and traumatic separation of child and family. Voluntary care is only sometimes available to serve this function.

- Homemaker aides: Another alternative is moving a helper into the family rather than moving the children out. Homemaker aides assist the overwhelmed parent cope with the daily problems which are causing stress. They may teach parenting skills, do the shopping, share the task of cleaning and organizing a household, and provide support and friendship for the struggling parent. Depending on the severity of the situation, homemaker aides may range from weekly visitors to live-in helpers.
  
- Non-traditional mental health services: Parents who abuse or neglect their children are usually troubled. In many cases they themselves were abused or neglected as children. To change such lifelong behavior, these parents may need intensive mental health counseling. But the traditional mental health arrangement--the once-a-week appointment in the therapist's office--is often ineffective. Traditional mental health services rely on their clients' motivation to change and ability to express themselves verbally. Parents who are neither highly motivated nor particularly verbal need mental health counselors who will come into their homes and teach them how to communicate effectively, to make decisions and to cope with the stresses of daily life.<sup>7</sup>

Department of Human Services workers share similar views on the need for more resources. In a survey of 52 Child Protective Services workers conducted by the Bureau of Resource Development in April, 1980, workers stated that of those services which are either limited or unavailable in their region, the most needed are: transportation, mental health services, supportive services,<sup>8</sup> day care, and homemakers. Substitute Care workers agreed. The Human Services Development Institute (HSDI) found that 27% of Substitute Care workers felt that additional therapeutic services (e.g., family therapy, alcoholism counseling) would be

beneficial to their clients; 25% cited a need for additional community services (e.g., employment resources, transportation, day care, day treatment, respite care); and 20% felt that additional in-home services (e.g., homemakers, in-home counseling) are needed.

While many Maine citizens stressed the need for more resources to help prevent children from entering foster care, others felt that requesting additional services is unrealistic. In an age of dwindling social service dollars, they argued, equal emphasis must be given to evaluating existing services and making them more available to families whose children are in jeopardy. The principal issue here is whether Title XX contracted services can and should be used more by high-risk families.

Title XX services are not now structured for families where child abuse or neglect is a problem. Some families cannot make use of potentially helpful services because they lack transportation or babysitting, or because they simply cannot take time off from work for daytime appointments.

Other services are simply not designed to meet the needs of high-risk families. For example, homemaker services in Maine have been designed traditionally to help the elderly remain in their own homes after they are unable to clean, shop or prepare food without help. But homemaker services to parents in crisis would require a different focus, that of teaching parenting, consumer skills, and home management.

Families where child abuse is a problem have been identified as a high priority client group for the receipt of Title XX funds. Accordingly, the Task Force believes that it is important to review all Title XX programs to determine the extent to which they are available to families who are clients of the State's Protective Services Units.

#### RECOMMENDATIONS:

1(a) Concerned citizens in each county should form Child Abuse and Neglect Councils.

The councils should include people with a variety of backgrounds and skills: parents, teachers, social

workers, clergy, mental health professionals, and others. While the councils should function autonomously, the Department of Human Services should provide the councils with information, consultation and technical assistance in getting started.

1(b) Child Abuse and Neglect Councils should alert the public to the problem of child abuse and neglect and should coordinate activities to prevent abuse and neglect.

The councils should actively encourage the development of preventive services, such as parent education and training classes, support groups, and recreational activities for youth. In addition, the councils should provide local outreach and education programs to make prevention of child abuse and neglect a community activity.

1(c) Bureau of Resource Development personnel should meet with Department of Human Services regional staff to determine the protective services needed in each region and to develop guidelines for providing those services through available resources, including Title XX contracts.

1(d) The Bureau of Resource Development should review all existing Title XX contracted services to determine whether such services are accessible to, appropriate for, and effective with families in which child abuse or neglect is a problem.

Those programs which are found to be inappropriate to the needs of this target client group as determined by regional staff should be given specific guidelines which require that top priority be given to the needs of this client group.

1(e) If additional Title XX funds become available through the implementation of 1(c) and 1(d), above, a portion of these funds should be allotted to each region as supportive service funds to purchase services for families in which child abuse and neglect is a problem.

1(f) Funding of the Voluntary Care program should be increased.

When only temporary care is needed, parents should not have to surrender legal custody of their child just because voluntary care funds have been exhausted. Funding of both the V-2 and V-8 programs should be increased to accomplish this goal.

FINDING 2: Parents are sometimes forced to give up custody of their children in order to obtain access to special services.

Maine law states that "children will be taken from the custody of their parents only where failure to do so would jeopardize their health or welfare." 22 M.R.S.A. §4003. Yet in some cases Maine children enter state custody simply to obtain funding for services for which they would not otherwise be eligible. These children are:

- children in need of out-of-home placement such as group home placement or residential treatment, for which their families are unable to pay;
- children in need of special educational services for which their local school districts are unwilling to pay;

In both of these cases, the children and their families need help. But making the State the child's legal parent is not necessarily the form of help that is needed.

This problem has been created by the structure of state government and the intricacies of state funding. In Maine, three departments share responsibility for matters relating to children.

The Department of Human Services is authorized to protect children from abuse and neglect, to remove them from their homes if in jeopardy, and to provide for their care while in custody.

The Department of Mental Health and Corrections is responsible for planning and providing children's mental health treatment services (for children with emotional or psychological problems) and for the corrections system (for children convicted of juvenile offenses). The Bureau of Mental Retardation is specifically responsible for services to retarded children.

The Department of Education and Cultural Services is responsible for the education of children in Maine. The federal 1975 Education of All Handicapped Children

Act (P.L. 94-142) requires the Department to provide education for all children, regardless of handicapping conditions.

Yet children rarely experience one type of problem in isolation from others. A child who is abused or neglected at home, for example, may be emotionally disturbed and uncontrollable in school. Because of the jurisdictional lines between departments, responsibility for these troubled children is often unclear. The departments argue about which of a troubled child's many problems is the "real" problem because each department tries, when possible, to shift financial responsibility to other departments to minimize the impact on its own budget. This situation has also compounded problems for residential treatment centers and group homes; they must deal with multiple sources of funding, each with its own contracting procedures and reporting requirements, in order to serve troubled children.

If the child requiring residential placement is already in state custody, responsibility for funding is clear. In general, the Department of Human Services pays for the child's care and treatment (i.e., room, board and mental health services) at the facility. If a child is placed in a residential treatment program with an on-site school, the Department of Education and Cultural Services pays for his or her educational expenses. If the child is placed in a group home with no on-site school, the community in which the group home is located pays for the child's education.

If a child is not in state custody when placement at a group home or residential treatment center is needed, the situation is more complicated. Human Services is not responsible for any part of the child's expenses. Mental Health and Corrections is responsible for therapeutic treatment. The local school district in which the parent of the child resides must pay for his or her education. Parents are responsible for their child's room and board unless the child requires special education services. In this case, the placement is initiated through the Pupil Evaluation Team (PET) process and the local school district is responsible for the child's room and board at the residential placement. With residential treatment costs now ranging from \$20,000 to \$25,000 per student per year, most parents are unable to pay the bill and most local school districts strongly resist doing so.<sup>9</sup> It becomes expedient, then, to refer the child

to the Department of Human Services in the hope that the child will be placed in state custody and room, board and treatment costs will be assumed by the Department of Human Services and tuition by the Department of Education and Cultural Services.

Similarly, if a child needs out-of-home therapeutic care but is not necessarily a problem in school, mental health workers may look to the Department of Human Services to take custody in order to pay for room and board while the taking of custody by the State makes funding available in both of these cases, parents who have not abused or neglected their child are forced to give up custody to obtain services the child needs.

While these problems were mentioned frequently during public hearings, the extent to which they actually occur is difficult to document. Substitute Care workers surveyed by HSDI acknowledged that 1.2% of the children in their caseloads entered state custody solely to obtain funding for specialized services. While this percentage is not large, it does represent approximately 30 children statewide who are in custody even though they have families able and willing to care for them. Many more children may be coming into custody for essentially the same reason, although other problems are shown as contributing to the need for placement.

To deal with this complex problem and others, the Interdepartmental Committee (IDC) was formed in 1977. Comprised of the Commissioners of Human Services, Mental Health and Corrections, and Educational and Cultural Services, the IDC and its subcommittees are charged with developing a coherent system of group care and residential treatment for children. In May, 1980, the IDC published its draft "Principles of Reimbursement" for public comment. This document represents the first effort to specify which residential placement expenses will be assumed by each department. Using these principles, the IDC will develop a single contracting process for all three departments and will enter into new contracts with residential treatment centers and group homes by October, 1980.

This procedure is expected to minimize the lengthy, complicated jurisdictional disputes which have characterized many cases of children in need. However, it does not directly address the problem of fixing

responsibility for the care of non-state wards who are not abused or neglected but do require out-of-home placement. With new contracts in place, it will be important to continue to monitor the extent to which children enter foster care solely to obtain services.

RECOMMENDATIONS:

2(a) The Task Force endorses the efforts of the IDC to develop revised rate-setting, contracting, and reporting procedures for residential treatment, group home and related services by October, 1980.

2(b) The Bureau of Resource Development should routinely monitor the entry of children into foster care to document the extent to which children may continue to enter state custody solely to receive services.

2(c) The Governor should require the Commissioners of Human Services, Mental Health and Corrections, and Education and Cultural Services to present a plan to him for fixing the responsibility for the care, treatment, and education of non-state wards who are not abused or neglected but who do require out-of-home placement, whether or not such children have special education needs. This plan should be presented in time for action by the 110th Legislature.

2(d) The Governor and the Legislature should make a commitment to provide ample resources for services to non-state wards who are not abused or neglected but who do require out-of-home placements, whether or not such children have special education needs.

FINDING 3: Maine citizens fundamentally disagree about the responsibility of the Department of Human Services for teenagers who are in conflict with their families or living on the streets.

Few issues sparked as intense debate among Task Force members, Department staff, and Maine citizens as the question of what to do about teenagers. Almost all agreed that teenagers present a problem to the adult world: figures on juvenile delinquency, truancy, substance abuse, pregnancies, and runaways among Maine's youth reflect a concern of national scope. Yet, few individuals agreed on the causes of such problems or, more important, on practical solutions.

In public hearings, research, and debate, the Task Force heard many views on who or what is to blame for the current system's inability to deal effectively with adolescents. Some blamed the teenagers themselves: if only they would "shape up," "learn some responsibility," or "behave," things would be better. Others blamed parents or the lack of adequate social services. Alternately schools, police, courts, mental health services, and the Department of Human Services become scapegoats for the community's inability to "cure" this turbulent adolescent population.

In his Executive Order, Governor Brennan charged the Task Force "to focus special attention on the needs of older, acting-out adolescents in all types of substitute care settings." However, before doing so, it is necessary to explore a parallel issue: Under what circumstances do adolescents enter substitute care? Who are the adolescents for whom substitute care services are and are not appropriate?

Maine law provides that the Department can take custody of a child found to be "in circumstances of jeopardy to his health and welfare." 22 M.R.S.A. §4035. In some cases there is little question as to the existence of jeopardy: for the adolescent who is battered, sexually molested, or deprived of adequate food, clothing, or housing by a parent, few debate the necessity of the State's assuming custody. In other

cases, the question of jeopardy is less clear: adolescents who are in constant conflict with family members and those who choose to live on the streets are two groups of teenagers around which there is considerable controversy. The Task Force found that Maine citizens expressed deep, and possibly irreconcilable, differences of opinions on what is and should be the response of the Department of Human Services to the needs of such youth.

### Adolescents in conflict with their families

While some turmoil marks the adolescent years of every individual, for many teenagers conflict with their families is chronic and often of crisis proportion. These are youths for whom family life is a series of mutually-exchanged threats, insults, physical assaults, emotional hurts, and rejections. Neither family nor youth is either "right" or "wrong" in such scenarios; both are alternately victims and victimizers. In many cases such families stay intact for years, bound together not by love and caring but by members' needs to hurt and be hurt.

In increasing numbers, such families are coming to the attention of the Department of Human Services. Contact may be made in one of a number of ways: exasperated parents may call the Department intake worker demanding that the State take their teenaged child ("I'm not going to put up with this any longer!"); the adolescent may appear at the Department office refusing to go home and demanding an alternative place to stay; or a third party--school official, health professional, or neighbor--may inform the Department of a chronically detrimental situation. In cases of this nature, the Task Force has heard three conflicting points of view:

1) These children have families who are able to parent them. When the State takes custody, it simply relieves the family of their obligation to try to work things out.

Proponents of this viewpoint argue that the existence of the foster care system, a readily-available (and free) system of alternative

care, encourages family break-up in these cases. If foster care did not exist, they believe, the family would be forced to work out a livable solution to its problems. On the other hand, if the State takes custody of the problem adolescent, positions can polarize and reconciliation becomes more difficult, if not impossible. Thus, the solution to family conflict of this nature is found in alternatives that do not require removal of the teenager: counseling, family therapy, etc. The Department's responsibility should be to make the appropriate referrals and to follow up on the situation periodically.

2) Whether the adolescent is the cause of family strife or its victim, he or she is at risk. The State should not wait until the situation becomes dangerous to acknowledge a problem and seek custody.

Individuals who support this view believe that the family who tries to turn over their child to state custody or the adolescent who demands to live away from home are responding to stresses that are too great to ignore. They argue that if such situations are not dealt with effectively and immediately, the State is being negligent in its duty to protect children. Proponents of this position argue that when the State takes custody it ensures its continued involvement with the family. As legal guardian of the child, the State must actively participate in the process of reunification of the family, if possible, or the development of an alternative plan for the child.

3) Voluntary care allows the family members some breathing space without increasing the distance between parent and child by removing the parents' legal custody.

Individuals who proposed this view felt it combines the best of both other options: it allows for out-of-home placement for the adolescent, without relieving the family of its obligation to parent the child. (The Voluntary Care programs, as they apply to all foster children, are discussed more fully above in Finding 1.) Many individuals further stated that the State should require support payments from parents in such situations. Support payments encourage the parent to maintain his/her moral and legal obligations to the child and discourage the breaking off of contact. (Support payments are discussed more fully in Finding 10). The Task Force believes that in most instances this position represents an appropriate response to the needs of adolescents in chronic conflict with their families.

## Children who live on the streets

Once considered a problem only in large urban centers, "street kids" have recently become more visible in Maine's cities and towns. These are the alienated, disaffected youth, the youth who survive on their own, day-to-day. They move from one temporary living situation to another, providing for themselves however they can: prostitution, criminal activity, handouts from friends.

Their reasons for being on the streets differ. Some are refugees from blatantly abusive or neglectful families, victims of family violence, family dissolution, or incest. Some are fleeing situations where the jeopardy is less apparent, reacting to stress, environmental factors, or emotional problems that make staying home--for them--intolerable.

The number of street kids in Maine is difficult, if not impossible, to estimate. It is a fluid population, the ranks swelling in the summer and declining in winter. Ages vary as well, although many workers feel that the median age is consistently dropping. While once the street kids were mainly 16 and 17-year olds, they now include 13, 14 and 15-year olds.

Resources for street kids are scarce. Partially, this is due to the reluctance of the social service community to involve itself with so transient and problematic a population. Partially, it is a result of the reluctance of the street kids themselves to accept the help and support of the adult community. Adult-wary, they provide for their own physical needs, albeit poorly in some instances, and derive whatever emotional support and sense of belonging they can from their peers.

The appropriateness of the involvement of the Department of Human Services with these youth is hotly debated. In public hearings around the State, the Task Force again found that three positions predominate:

1) These children are not appropriate clients for the Department.

Proponents of this point of view believe the responsibility of the Department is to protect children from abuse and neglect. They argue that most of the

street kids have made an active choice to live on the streets and are rarely in jeopardy. Although their choices may seem poor to the adult community, it is impossible, if not immoral, to try to force unwanted services upon them.

Furthermore, in cases where the Department has assumed custody of these youth, many workers feel the Department has few appropriate resources to offer: the adolescent quickly moves in and out of foster homes, group home placements and residential treatment centers, exhausting what few resources exist. He or she will return to the streets when things look good and demand services that do not exist when the situation turns bad. Proponents of this point of view feel that for the State to be legally responsible for these youths is just not practical - many, many worker-hours may be lost trying to track and plan for youths who simply do not want what the Department has to offer.

2) It is the duty of the Department to provide services for these children at risk. Custody is the best way to ensure the provision of services.

A second position, advocated by many, emphasizes that the street kids are children in jeopardy. Whether or not such jeopardy is readily apparent, the Department has a mandate to serve these youth, to provide them with reasonable alternatives to life on the streets. Furthermore, if the Department's current resources are inappropriate to this group of children, the answer is to augment or overhaul the resources, not to bar the children from the care and protection which they deserve.

Proponents of this position feel that by using a narrow definition of "children in jeopardy" the Department allows itself to avoid taking custody of these children and, thus, avoid the responsibility of providing them with innovative and intensive services. They argue that the Department, in this manner, is turning its back on a population of children in need.

3) The Department must provide quality services for these youths but is not required to take custody in order to do so.

Proponents of this position believe that the Department has a mandate to provide services for children on the streets, but is not required to seek

custody, unless the child is obviously abused or neglected. They argue that because these youth are at risk, the Department has an obligation to develop services which meet these youth's basic needs for food and shelter. Examples of such services include youth hostels, where youth would be provided with beds and showers (see also Finding 6) and soup-kitchen type feeding programs. In addition, the Department must be able to refer youths to medical and counseling services, if requested. It is the responsibility of the Department to keep its doors open for these youths, but not to attempt to force unwanted services or living arrangements upon them. Thus, advocates of this position maintain that the Department need not provide long-term living arrangements for youth who clearly do not want a permanent (or even semi-permanent) home. The Task Force endorses this position concerning the Department's responsibility to children who live on the streets.

RECOMMENDATIONS:

3(a) In order to provide care for adolescents in conflict with their families without encouraging further family disintegration, funding of the Voluntary Care program should be increased.

See Recommendation 1(f)

3(b) To encourage parents to meet their moral and legal obligations and to stay involved with their adolescents in voluntary care, the Department should develop and implement strong policies regarding voluntary support agreements.

See Recommendation 10(b)

3(c) The Department should provide or contract with private agencies to provide non-custodial services for children who live on the streets. These services should include: food, short-term shelter, and referrals to medical help and counseling. The Legislature should provide adequate funds to provide these services.

FINDING 4: Unnecessary fear and confusion mark the entry of many children into foster care.

Even when a child is removed from his or her family to avoid serious harm, removal itself often harms the child. Taking a child away from a familiar family and a familiar environment--no matter how harmful that environment may be--exposes the child to an additional risk. As stated by Goldstein, Freud, and Solnit in Beyond the Best Interests of the Child:

"Continuity of relationships, surroundings, and environmental influence are essential for a child's normal development. Since they do not play the same role in later life, their importance is often underrated by the adult world."<sup>10</sup>

Maine's foster children made the accuracy of this observation painfully clear. In testimony to the Task Force and during interviews with HSDI staff, they often described the fear of the unknown as the major trauma of placement. Some presented themselves as "kidnapped" children with little sense of why they were moved from one home or placed in another.

The Department does not routinely take steps which could minimize the trauma of entry into care. In its Standards for Foster Family Services Systems for Public Agencies, the American Public Welfare Association (APWA) recommends the following pre-placement services designed to help the child understand the reasons for placement and to prepare him or her to deal with a new environment and new people:

- 1 or more pre-placement visits to the foster family;
- health assessment;
- psychological evaluation;
- mutual determination of what the child should take including such important "ties to the past" as pictures, addresses, and possessions;
- planning for visits with the child's natural family;
- involving the child's present school with the new one to ensure continuity of educational experience.

The pre-placement process, according to APWA, should also involve the natural family in planning for placement and providing information to the foster parents about the child.<sup>11</sup>

While some of these steps are contained in Department policy (Approved Policy Statements 28 and 52), many testified that they were not being implemented. Foster parents and foster children reported that children are moved without knowing why. Some natural parents felt that plans for visiting their children were not always explicit. Foster parents also reported receiving inaccurate information about children.

Department personnel agreed with the benefits of pre-placement services but stated that, in practice, the pressure of moving children during times of crisis often prevents them from providing such services. Approximately 24% of Maine's children enter state custody in response to a crisis at home which requires their immediate removal. A move from one foster home to another may also be required immediately. Nevertheless, citizens and Department personnel agreed that family crises should not necessarily deprive a child of adequate preparation for the move into foster care, nor relieve the worker of responsibility for preparing the child.

Maine lacks a comprehensive system of readily-available emergency placements for children in crisis. Such a system would allow a worker to place a child in short-term care while locating an appropriate placement and helping the child and family understand the reasons for the child's removal from home.

Emergency placement programs exist to varying degrees throughout the state. Some are specialized shelter facilities. The Department and private social service agencies maintain some programs using families who have agreed to provide emergency care on short notice. In all regions of the State, however, Department personnel cited the need for additional emergency placement resources as one of their highest priorities.

It is impossible to quantify the pain and disorientation which a child experiences by being poorly prepared for foster placement or being placed in a family which does not meet his or her individual

needs. But the frequency with which some foster children in Maine move from placement to placement suggests that the problem of mismatched or improperly prepared placements is substantial. Of the children in foster care in Maine in November, 1979, 36% had changed families four times or more since leaving home. An additional 36% of these children had had 2-3 placements during their time in care. Adequate emergency care resources and thorough preparation of the child for foster care could help to minimize some of the inevitable pain which children experience when removed from their natural families.

RECOMMENDATIONS:

4(a) Department of Human Services workers and their supervisors should provide each child who enters foster care with the following services:

- 1 or more pre-placement visits to the prospective foster family,
- health assessment,
- psychological evaluation if deemed necessary by the worker,
- mutual determination of what the child should take, including such important "ties to the past" as pictures, addresses, and possessions,
- a written plan for visits with the natural family, developed by the worker, family, and child (if appropriate),
- involvement of the child's present school with the new one to ensure continuity of educational experience,
- at least one visit from the Substitute Care worker within 2 weeks of placement, and frequently thereafter, to allow the child to discuss his or her feelings about placement,
- periodic visits by the Substitute Care worker with the child alone to minimize the chances of abuse or neglect by the foster parents.

4(b) Department of Human Services workers and their supervisors should provide the natural family of every child entering foster care with the following services:

- a jointly developed written agreement outlining agency expectations of the parent and parental expectations of the agency,
- a written visiting plan developed by the worker, family, foster family and child, if appropriate,
- a written statement of legal rights and responsibilities of all parties,
- consideration of the family's preferences for the child's placement (e.g., race, religious affiliation),
- a written agreement concerning financial obligations of the family while the child is in custody.

4(c) Department of Human Services workers and their supervisors should provide foster families with adequate information about the child for whom they are asked to care including:

- strengths, needs, and behavior of the child,
- reasons for placement,
- information about the child's family relationships which might affect his or her placement,
- important life experiences of the child which may affect his or her behavior, feelings, or adjustment,
- expected duration of placement and case plan.

4(d) The Bureau of Resource Development should work with DHS regional staff to assess the need for emergency placement resources in each region and the Legislature should allocate funds accordingly.

The Task Force recognizes the scope and complexity of this problem and stresses the need for further study of the types of resources necessary as well as possible avenues for funding these resources.

FINDING 5: Without adequate, early case planning, many Maine children linger needlessly in foster care.

Maine's child welfare law recognizes the adverse effects on the child of "uncertainty and instability." Accordingly, it requires the Department of Human Services to work towards "rehabilitation and reunification" of the child's natural family or the "early establishment of permanent plans for the care and custody of children who cannot return to their family." 22 M.R.S.A. §4003. In reality, however, for an alarming number of foster children the Department has not succeeded in achieving reunification nor in developing a permanent plan.

Foster Care Drift

The HSDI survey revealed that as of November, 1979, approximately 25% of Maine's foster children had been in foster care 10 years or more. Another 18% had been in foster care from 6-9 years; 40% had been in care between 2 and 5 years. For these children foster care is not a temporary placement leading to a more permanent home. These children grow up without ever knowing a permanent home. For some, neglect characterizes the very system which was designed to protect them. Like others across the country, Maine foster children are victims of the phenomenon known as "foster care drift."

The reasons for these children's tragedies are complex. After listening to the anger, frustration, and despair expressed by Department social workers at public hearings, the Task Force believes that the causes are not malice nor disinterest nor lack of compassion. Foster children are entangled in a legislative, judicial and administrative web which was designed historically to protect their parents from undue state interference, but which in practice simply deprives many children of their rights to secure, stable lives.

## Case Planning

The major tool for moving children through the foster care program and into permanent homes is the case plan developed by the worker for each child in foster care and his or her family. Ideally, the first step in moving a child out of foster care is the development of a thorough case plan prior to entry into foster care.

For various reasons the Department has failed to implement early and effective case planning for children in foster care. While the Department does have a policy outlining the content of case plans (Approved Policy Statement 198), it does not specify directly, as the APWA recommends, that the purpose of such a plan is "to establish time-related objectives that . . . lead to achieving a goal of permanence for each child."<sup>12</sup> In examining the case plans of 487 of Maine's foster children, researchers from HSDI found that in 16% of these cases specific activities with time frames for accomplishing them were not recorded. In 21% of these cases, the case plan did not specify who was responsible for what actions.

Furthermore, most case plans are not developed in accordance with APWA standards. The APWA stresses that "all parties with a legitimate interest"<sup>13</sup> in the case should help to develop the plan within 30 days of the child's commitment to the custody of the Department. The parties to be involved in planning may include natural parents, foster parents, extended family, and the child (when appropriate), and all should receive a written copy of the plan developed. In Maine HSDI researchers found that in 51% of the cases the case plans were not even shared with parent or child.

In conjunction with the HSDI Child and Family Survey, two Substitute Care Consultants from the Bureau of Resource Development reviewed the case plans of 40 randomly-selected children. In general, the reviewers felt that the case plans of children over 14 were appropriate and realistic. They were less satisfied, however, with the case plans for the younger children. For children 14 and under, only 60% were considered to have realistic program objectives. In 50% of the cases reviewers felt that more could be done to help these children than was currently indicated in their case plan. These findings underscore the need for more effective case planning for children in foster care.

## Legal Barriers to Effective Planning

A major obstacle to improving case planning is Maine law itself. A majority (56%) of Maine's foster children enter foster care under "temporary" custody orders (called "preliminary protection orders"). However, the law does not limit the duration of "temporary" custody in any way. Furthermore, while the child is in temporary custody, the Department cannot begin to develop a permanent plan for the child. In cases where a parent is absent, inaccessible or unable to make a good faith effort to change, the Department must mark time until the court issues a full custody order ("a final protection order"). Crowded court dockets and numerous continuances granted to attorneys for both the Department and the natural parents often cause children to remain "in limbo" for years, with little meaningful work being done either to return them home or to free them for adoption.

In the past when the Department petitioned for and received a court order granting it full custody of the child, the delays did not end. Until the new child welfare statute (P.L. 1979, Chapter 733) went into effect in July, 1980, the Department was required by law to specify "return home" as a goal for all foster children for one year following a court order granting full custody to the Department. While this statute was designed to favor the natural family and to give parents time for rehabilitation, it worked in many instances against the best interest of the child. In some cases, it simply meant that more valuable time was lost before the Department could make realistic case plans for some children in foster care.

Maine's new child welfare statute addresses only part of this problem. It reduces from 1 year to 3 months the time during which the Department must work toward family reunification following the award of full custody. 22 M.R.S.A. §4052. But it does not address the indefinite duration of time that may pass between an order for temporary custody (the "preliminary protection order") and the hearing on a petition for full custody. Thus, children can still enter care on a temporary basis and remain in care indefinitely.

RECOMMENDATIONS:

5(a) The 110th Legislature should amend 22 M.R.S.A. §4035 to specify that the hearing on a final protection petition must be held within 90 days of the filing of that petition, unless the court, only after hearing and on a showing of good cause, decides that a continuance should be granted.

5(b) The Division of Child and Family Services should develop a policy on case planning separate from the existing case recording policy. Planning should be specifically tied to time-limited objectives leading to the goal of permanence for each child. The case plan should be developed with the participation of parents, foster parents, and the child, if appropriate.

5(c) The Department of Human Services should implement mandatory training for all workers in the development of effective case plans.

#### FOOTNOTES

1. Dr. Eli Newberger, "Interdisciplinary Management of Child Abuse: Practical Ethical, and Programmatic Issues," pp.6-7.
2. Children and Families at Risk in Cumberland County, Report of the United Way Substitute Care Task Force, September 1976, p. 28.
3. National Committee for Prevention of Child Abuse, A Community Plan for Preventing Child Abuse, p.1.
4. Ibid., p.5.
5. The 24-hour toll-free hotline grew out of a recommendation made in September, 1976 by the United Way Substitute Care Task Force Report, supra, p.36.
6. State of Maine, Department of Human Services, 1979-1980 Title XX Comprehensive Annual Services Program Plan, pp. 182, 187.
7. Results of in-home counseling can be impressive. In Tacoma, Washington, for example, an in-home counseling program called Homebuilders involved sending teams of therapists into the homes of 207 families, in which 311 children were already scheduled for placement in foster families or institutional care. The workers stayed with the family as long as they were needed, sometimes working with a family for 6-12 hours at a time on several consecutive days. In 87% of the cases, placement was prevented - at a saving to the state of \$2,500 per person or \$675,000 per year.
8. While "supportive services" were not specifically defined in this survey, the Project Director felt that workers were referring in this case to regional contingency funds which may be used for one-time cash expenditures to aid families in crisis.

9. School districts are reimbursed for their share of residential treatment costs, but it usually takes between 1 and 2 years to receive payment. Most small school districts cannot afford to advance such large sums of money.
10. Goldstein, Freud, and Solnit, Beyond the Best Interests of the Child, p.31-34.
11. American Public Welfare Association, Standards for Foster Family Services Systems for Public Agencies, pp.35-41.
12. Ibid., p. 29.
13. APWA, op. cit., p. 29.

## CARING FOR FOSTER CHILDREN

*"When my first child was born, 4½ years after my marriage, I asked my doctor, 'How do you love more than one person at a time?' He said that would come naturally. And with each child I had, my ability to love would increase.*

*"That was 18 years ago. And now I have so much love to give there aren't enough kids around to use it all up."*

...letter from a foster parent



FINDING 6: Maine's narrow range of substitute care placement resources cripples the Department's ability to provide each foster child with a placement suited to his or her individual needs.

When the State removes a child from his or her natural family, it is not enough to provide the child with another place to live. The new home is not likely to be an improvement unless it is carefully selected to meet the child's unique needs. The factors that should be considered in selecting a placement include:

- proximity of the placement to the child's own home,
- personality and interests of the child and family,
- the number and ages of other children in the foster home,
- racial and religious characteristics of the child and family,
- availability of appropriate educational programs for children with learning problems, and
- the willingness and skill of the family to deal with any special behavioral, intellectual, or physical problems of the child.

Because so many factors must be considered in order to find the right placement for a foster child, simply having enough beds to go around is not sufficient. Department workers need a wide variety of options equivalent to the variety of foster children. For example, to place an emotionally disturbed child from Biddeford with a family in Houlton prevents frequent visits even though the goal may be to return the child home. Similarly, foster parents whose own children are under five years old may have difficulty accepting a teenager into their home, but may do well with a

younger child. Placing a black or Indian child with a white family may add to that child's fear and confusion and discourage his or her development of a positive ethnic identity.

A large number of Maine's foster children are difficult to place: approximately 39% of the children surveyed in November, 1979, fell into this category. The following characteristics of Maine's foster children affect the difficulty of finding appropriate placements (because some children have more than one problem, the numbers are not additive):

- 56% of the children in care or custody are adolescents (age 13 or over),
- 18% are considered emotionally disturbed,
- 18% exhibit acting-out behavior (e.g. runaways or truants),
- 9% are mentally retarded,
- 9% are delinquent,
- 9% are aggressive (dangerous to themselves or others),
- 6% are physically disabled,
- 6% are alcohol or drug abusers, and
- 5% are minority children (black or Native American).

As one Department social worker testified, "The foster children of 1980 are not the helpless, homeless, blue-eyed waifs of a century ago. They are difficult children who present special challenges to those who care for them."

Relatively few placement options exist for these children. The majority of Maine's 2450 foster children (53% in the survey sample group) are living with licensed foster families. These families have met the Department's criteria to board children and are paid to care for children in the custody of the State. There are now approximately 1000 licensed foster families in Maine and they may care for one or more foster children at a time.

Many foster families specify the types of children they will accept and the severity of problems with which they will deal. The percentages of foster families willing to accept children with various special needs are as follows:

- adolescents	17%
- deaf	17%
- blind	16%
- physically handicapped- not in a wheelchair	16%
- mildly/moderately mentally retarded	15%
- wheelchair-confined	10%
- acting out (runaway, truant)	9%
- delinquent	6%
- severely retarded or emotionally disturbed	5%
- alcohol or drug abuser	3%
- aggressive	3%

Over half of the children in care are adolescents and over one-quarter have at least one behavioral, intellectual, or physical problem requiring special attention. The above figures clearly indicate that the specifications of many foster families do not match the needs of many of the children in foster care today.

The next largest group of foster children (approximately 20% in the survey sample group) are placed in the homes of relatives or with their own family. The Department encourages placements with relatives, because they offer the child the security of familiar faces and blood ties. Children placed with their own family have generally been in care for a while and have returned home on a trial basis before the Department petitions the court for dismissal of custody.

Another 8% of the children in the survey sample live in homes that are described as "approved but unlicensed" foster homes. According to Maine law, children who are 16 or over may live in homes which are not licensed as foster family homes by the Department but are approved (by the social worker) for foster care payments. Teenagers often find their own placements; a child in conflict with his or her own family may be taken in by the family of a friend. Such a family may have no interest in caring for other foster children, but will agree to care for a particular child that they know. Currently, there are approximately 700 unlicensed families approved for foster care payments.

For children who cannot be cared for in a family environment (8% in the survey sample), Maine has approximately 36 group homes and residential treatment centers. A group home cares for 6 to 10 children. These facilities range from family homes, which are owned and operated by a couple and may function like large foster families, to those that are owned and operated by private, non-profit social service agencies. The latter group may employ staff members who work on a rotating basis. Residential treatment centers are generally larger facilities, designed for children who cannot live in a community setting. They offer intensive therapeutic environments and, in most cases, a special education school.

The rest of Maine's foster children live in other settings: a small group (approximately 3%) live in adoptive homes waiting for their adoptions to be finalized; others are incarcerated in the Maine Youth Center (2%) or are living independently (2%).

The Task Force found that because of the narrow range of placement resources, children are living in situations which do not meet their needs. Workers acknowledged that 11% of their caseloads (or 225 children, statewide) had unsatisfactory places to live. The frequency with which foster children move from place to another is also evidence that the current pool of placement resources is not adequate: as reported above, approximately 36% of Maine's foster children have had 2-3 placements since leaving home; another 31% have experienced 4-10 placements; and 6% have moved 11 times or more. While some moves reflect positive changes in a child's life (e.g., return to his/her own family, or a move into an adoptive home),

workers estimated that 50% of the moves from one foster placement to another represented a failure of the placement to meet the child's particular needs.

Closer examination of Maine's foster families supports workers' testimony that their choices are too limited. HSDI researchers found that most of Maine's foster families (approximately 66%) were generally middle class and had received education or training through high school or beyond. Almost all were white, Protestant, married, two-parent families.

The relative uniformity of foster families compared to Maine's entire population presents two problems for workers and foster children. First, the typical foster family is quite different from the families of most of Maine's foster children. Most natural parents of foster children have lower incomes than the foster parents. A far greater percentage are one-parent families, either because the parent has never married or is separated or divorced. These differences between natural and foster families increase the child's feeling of separation from his or her roots. As one natural parent stated, "The parent who lives in a trailer park has a hard time competing with an 80 acre farm."

When older children choose their own foster families ("approved but unlicensed"), they generally find families more similar to their own. Seventeen percent of all approved but unlicensed foster parents are single; another 16%, divorced. In contrast, only 4% of licensed foster parents are single, and another 4%, divorced.

Some citizens told the Task Force that they believe the middle class status of many of Maine's foster families is a result of the standards and procedures used to license them. Licensing standards, as required by Maine law, are quite general in terms of personal characteristics and quite specific in terms of housing safety requirements. For example, if more than 6 people sleep on the second floor, there must be two exits from the floor; fire extinguishers and smoke alarms are mandatory; electrical wiring must be inspected and meet certain safety requirements. The standards may discourage lower income and minority families from applying for a license. Approximately

37% of foster parents responding to the survey felt that the Department should offer financial assistance to families in meeting licensing standards.

Similarly, lower income and minority families are further alienated by the process of having their homes inspected. For example, representatives of Indian agencies testified that Indian families are often hesitant to have State officials come into their homes and "pass judgment" on their way of life. In minority and lower income communities, they testified, there is an attitude of "I won't pass anyway, so why bother?" Indian representatives charged that because most social workers are middle class themselves, they may react negatively to the physical condition of the homes of Indian and lower income families, thus by-passing valuable potential homes for many children.

A second problem related to the relative uniformity of Maine's foster families is that, in many cases traditional families are not able to cope with the troubled, demanding nature of many of Maine's foster children. In a recent workshop for Department of Human Services personnel a nationally-known social worker said simply, "Crazy kids need crazy families." In a more moderate tone many foster and adoptive parents agreed that only special individuals can cope with aggressive or acting out children with a chaotic life history.

Therapeutic foster homes are a fairly recent response to the difficulty of placing troubled children in traditional families. There is no uniform definition of "therapeutic foster home," but several factors usually distinguish these placements:

- therapeutic foster parents generally receive specialized training on dealing with special needs children,
- therapeutic families generally work closely with a supporting agency, which offers supervision,
- therapeutic families consult regularly with mental health personnel, who offer clinical support, and
- therapeutic families may receive higher rates of pay than other foster families.

At present, there are only four therapeutic foster home programs in Maine, two sponsored by private agencies, one by a mental health center, and one by a regional office of the Department of Human Services. These programs combined serve approximately 58 foster children, or 2.3% of the foster care population.

Group homes and residential treatment centers care for most of the children who cannot live in a family setting. In public hearings, two criticisms of group homes and residential treatment facilities emerged: first, there are a limited number of beds (known as "slots") available for children in the care or custody of the Department; second, these programs are selective about the types of children they will serve.

At the time of the foster care survey, approximately 650 beds were, theoretically, available for children in the care or custody of the Department of Human Services. However, only 250 (or 38%) were actually occupied by foster children. The remaining beds served referrals from other agencies or children placed directly by their families.

Selection criteria among group homes and residential treatment centers vary. Of the maximum 650 slots, approximately 65% (or 425) are open either to children or adolescents. Twenty-five percent are reserved strictly for adolescents; another 10% are reserved only for younger children.

Many, but not all, group homes and treatment centers serve children with special needs. Over half accept children that are mildly or moderately emotionally disturbed, acting out, or delinquent. Slightly less than half serve children who are aggressive or alcohol/drug abusers. Approximately one-third serve children who are physically handicapped but not wheelchair-confined. Representatives of group home and residential treatment facilities defended their selection criteria on the ground that one program simply cannot serve all children: to place a mentally retarded youngster in a group program aimed at delinquent teenagers helps no one; similarly, to place a child with a history of arson in an unlocked community facility is simply dangerous.

From evidence presented to the Task Force the following four groups of children appear the most

difficult to place: teenagers, younger children in need of therapeutic care, developmentally disabled or multiply handicapped children, and minority children.

- Teenagers: Approximately 1400 teenagers are currently in care or custody. Only 585 residential treatment or group home slots are available for teenagers; approximately 200 foster families are willing to provide temporary foster care for them. For problem teenagers, the situation is worse: for example, approximately 480 teenagers in foster care are seen as acting out; for these children, a maximum of 338 residential treatment or group home slots and 14 families are available. The problems of teenagers in foster care will be examined further in Finding 8.
- Children in need of therapeutic care: 250 children under 13 are seen by their social workers as being mildly or moderately disturbed; 100, as acting out. A maximum of 385 residential treatment or group home beds are open to these children and approximately 100 families will accept them.
- Developmentally disabled or multiple handicapped children: Approximately 475 children in foster care have one or more handicapping conditions which restricts their ability to care for themselves. A maximum of 385 residential treatment or group home beds are available for these children. However, only 65 will serve children who cannot walk. Another 61 foster families will care for children who are wheelchair-confined; approximately 31 families will care for children who are severely retarded; and 19 families will care for children who are severely emotionally handicapped (e.g. autistic or psychotic).
- Minority children: For minority children the problem is not finding placements, but placing them with minority families. Approximately 75 of Maine's foster children are black. However, only 5 female foster parents and 3 male foster parents are black. Similarly, 50 children in foster care are Native American;

yet only 6 female foster parents and 9 male foster parents are Native American. Finding 7 deals with the problems of Native American foster children in more detail.

These findings do not fully reflect the seriousness of the problem. If only 1 additional placement consideration--proximity to the child's home--is added to the picture, the shortage of appropriate placements becomes apparent. A major recruitment effort is needed to develop additional placement resources for all children, especially those with special needs.

RECOMMENDATIONS:

Recruitment of foster families:

6(a) The Bureau of Resource Development should employ one full-time staff member to coordinate statewide recruiting efforts for foster families and to provide technical assistance to the regions.

6(b) Each regional DHS office should identify one staff member to give top priority to local recruitment efforts.

These workers should not be considered as direct service staff in the distribution and computation of caseload size.

6(c) Regional recruitment specialists and the Central Office coordinator should meet on a monthly basis to exchange information and share ideas.

6(d) Innovative methods should be used for recruitment and a separate DHS budget line should be identified for recruitment expenses. The recruitment coordinator should explore the use of the media, private agencies, foster parents, etc. Local recruitment specialists should make use of existing community networks, e.g., churches, clubs, PTA's.

Home studies and licensing for foster families:

6(e) In selecting foster families, the Department should develop criteria that (a) put primary emphasis on parenting ability and (b) allow for enough flexibility to meet the diverse needs of children in foster care.

A uniform procedure for thorough home studies of potential foster families should be developed by the Division of Licensing, with the participation of the Division of Child and Family Services, regional staff, a representative group of foster parents, and representatives of the community (educators, mental health practitioners, parents, etc.). This group should determine the best way of assessing potential foster parenting ability.

6(f) Appropriate Department personnel should receive training in conducting home studies of foster families.

16(g) For families who have the personal characteristics to be foster parents but whose homes do not meet Department licensing standards, assistance from the Department should be available.

The Department should refer such families to resources which might resolve housing problems (e.g., CETA housing rehabilitation crews, Voc Tech school crews, etc.) and, in cases of special need, make limited payments to help prospective foster parents meet licensing standards which are above the standard of safety of the normal home in their community.

6(h) The Division of Licensing should specify in writing those licensing standards not clearly related to the health or safety of children which can be waived by the Division, and should develop a clear procedure for waiving such standards in appropriate cases.

Resources for hard-to-place children:

6(i) The Department should develop and implement innovative approaches to the placement of adolescents.

These approaches may include:

- increased use of single foster parents (see Recommendation 8(e))
- increased use of semi-independent living arrangements (including clarifications of guidelines on semi-independent living)
- hostel-type programs, contracted out to private agencies, for the housing of "street kids" who are in the custody of the Department and refuse other placement options (see Recommendation 3(c)).

6(j) The Department should develop specific criteria for foster homes which can be certified as therapeutic homes.

These criteria should include specific training requirements and a more precise definition of the required personal and family characteristics.

6(k) The Department should define a separate and higher rate of pay for certified therapeutic foster homes.

See Recommendation 9(d).

6(l) The Bureau of Resource Development in cooperation with regional officers, should develop contracts with community agencies (e.g., mental health centers, training resources) to provide additional support, supervision, and consultation for therapeutic foster parents.

6(m) For severely disturbed children who cannot live in a community setting, the Department of Mental Health should be supported and encouraged in the development of specialized facilities to serve this population.

6(n) Community groups involved with child health should provide outreach and support services to natural and foster parents of developmentally disabled children.

6(o) The Bureau of Resource Development should contract with private agencies to provide additional group home slots for developmentally disabled and multiply handicapped children.

6(p) The Department should actively work to develop enough minority placement resources so that all minority children can be ensured placement in a setting which encourages their positive cultural identification.

6(q) The Department should work with representatives of off-reservation Native Americans and the Tribal Governments to develop the following:

- appropriate methods for recruitment of Native American foster families,
- a procedure for licensing Native American foster homes which takes into account cultural and economic factors, and

- consultation and technical assistance to Native American agencies to enable them to conduct recruitment and home studies of Native American foster families.

FINDING 7: The Department of Human Services has not done enough to help Native American children in foster care retain their cultural ties.

Approximately 2% of Maine's foster children are identified as Native American. Although this population is not large in numbers, Indian children are over-represented in the foster care population. According to Department figures, approximately 7.58% of all Indian children in Maine are in foster care, compared to only .4% of non-Indian children.

Indian representatives told the Task Force that many reasons exist for the high rate of removal of Indian children from their homes. According to the Central Maine Indian Association (CMIA), there is only one Indian employed as a social worker for the Department of Human Services. Lack of familiarity with Indian culture thus breeds prejudice and misunderstanding. Combined with the high rates of poverty, alcoholism, and unemployment among Indian people, these factors have historically led to frequent removal of children from Indian families.

Yet when Indian children are placed in foster care, the Department does little to help them retain their Indian identities. In testimony to the Task Force, Indian representatives cited three practices which discourage Indian children from maintaining positive ethnic ties. First, Indians charged that the Department, in many instances, has not noted on children's records that they are of Indian heritage. When Indian heritage is noted, tribal affiliations often are not. This practice was partly the result of federal legislation requiring elimination of references to race on governmental records, a requirement which has now been reversed by the federal Indian Child Welfare Act. These practices have made it exceedingly difficult for Indian children coming of age in foster care to trace their own roots and re-establish ties to the Indian community.

A second problem cited by Indian representatives is the lack of Indian foster families. As cited in Finding 6, approximately 15 Indians currently serve as licensed foster parents in the State of Maine. Lack of Indian families - and lack of a program to recruit more

families - have necessitated the placement of Indian children with non-Indian families. Although many non-Indian foster parents testified that they care deeply for the Indian children placed in their homes, Indian themselves (including former Indian foster children) stated that placement with an Indian family is far more beneficial to such children.

In an effort to improve foster care services to Indian children, Indians, nationwide, have advocated for the delivery of child welfare programs for Indian children by Indian people. The Indian Child Welfare Act authorizes federal money to go to recognized tribal governments to provide such services for on-reservation Indians.

However, Maine Indians point out that approximately 70% of all Native Americans in Maine live off the reservations. Thus, they are ineligible for any federal support for child welfare services. They argue that the only way to ensure adequate services for off-reservation Indian foster children is by allowing federal funds to be targetted at off-reservation Indian social welfare agencies. Only in this way, they feel, can the majority of Maine's Indian foster children be assured of services which enhance, rather than destroy, their cultural indentification.

#### RECOMMENDATIONS:

7(a) The Department of Human Services should make it part of their policy and procedures to contact the appropriate tribal government or off-reservation Indian association when they come into contact with a child who is known to be or may be Indian.

The role of the tribe or agency in this case would be to ascertain the child's Indian affiliation and ensure that the child is placed in a situation which enhances these ties.

7(b) The Department of Human Services should use an off-reservation Indian agency, such as the Central Maine Indian Association, as mediator in foster care cases involving state and tribe, tribe and tribe, and state and Indian individual.

7(c) Direct funding, such as Title XX and IV-B monies, should be made available to off-reservation Indian agencies involved in child welfare activities, which are not eligible for Indian Child Welfare Act funds.

7(d) The University of Maine should include in its social work curricula courses on Indian tribal cultures and their implications for child welfare services.

7(e) Department policy should provide that adoptive parents and child-placing agencies should commit themselves to providing cultural supports for minority children being adopted.

FINDING 8: Over half of Maine's foster children are adolescents, yet the state is failing to provide adequate services to meet the special needs of these youth.

Over the past two decades the median age of Maine's foster children has jumped from slightly over 12 to 14. Similarly, the proportion of foster children who are adolescents has grown from 46% in 1960 to 56% in 1980.

Most teenagers are not well served by a foster care system designed for younger children. Maine teenagers display more problems upon entering foster care than younger children do. They have different needs and thus make different demands while in care. Moreover, return home and adoption are much more difficult to achieve for teenagers than for younger children.

The HSDI survey of foster children illustrates the gap in quality between planning and service delivery for younger children and teenagers. Four indicators can be used to examine the experience of adolescents in foster care: their reasons for entering care, their placement experience, their unmet service needs, and their permanency plans.

Reasons for Entering Care

For both younger and older children, parental neglect, mental illness, and alcohol or drug addiction were the major reasons for state intervention. However, workers were much more likely to report that teenagers entered care for behavioral problems than younger children: ten times more teenagers were characterized as "delinquent" and nearly three times more as "acting out." Similarly, moderate emotional illness and alcohol or drug abuse appeared more frequently as reasons for entry of older children into foster care.

## Placement Experience

While licensed foster family homes have been the traditional, stable placement resource for children in state care or custody, only 42% of the foster teenagers in Maine actually live in foster homes. (approximately 60% of the younger children do.) Instead, teenagers live independently (15%), in relatives' homes (11%), in group homes and residential treatment centers (11%), and in their own homes (9%). Data were unavailable on the other 12%.

Teenagers have a history of greater instability in their placements than younger children. Ten percent of the children over 12 have had ten or more placements and 19% have had between six and ten placements. This compares with 0 and 8%, respectively, for the younger children.

Teenagers tend to be more dissatisfied with their placements and initiate moves more often than younger children; they also move to and from residential treatment more frequently. Thus, in 18% of the cases the older child initiated the move from his or her previous placement, compared to 8% for the under 12 age group. For 11% the move was to or from residential treatment compared to 3% for children under 12. Moves for teenagers were also less likely to be towards achieving a permanent placement: for 20% of the younger children, compared to 15% of the older, finding a permanent home was cited as the reason for a foster child's move.

In the survey workers said that nearly half of the teenagers (49%) compared to 29% of the younger children were difficult to place. Also, workers would move twice as many teenagers as younger children if a more appropriate placement were available.

Foster parents agree with the social workers' perception of teenagers as difficult to place. As mentioned in Finding 6, very few will accept adolescents if they display behavioral problems.

While 17% of the foster families in Maine would give temporary care to adolescents, only 9% would serve

acting-out youngsters, 6% would serve juvenile delinquents and 3% would serve alcohol or drug abusers. In each instance, almost twice as many teenagers were reported as having these problems.

Social workers also said that 17% of the teenagers needed a different type of placement than was currently available. Statewide, they saw a need for 90 additional group home or halfway house slots for teenagers, 45 single adult foster parents, and 15 more slots for residential treatment (for both teenagers and children combined).

### Service Needs

The survey also demonstrated that adolescents have specific service needs. In 29% of the cases, workers reported teenagers needing better educational services--better vocational training, remedial education, and alternative schools. The second most frequently cited need (27% of the teenagers) was therapeutic services, specifically individual counseling and family therapy. The third most frequent (26%) was community services, such as employment, job counseling, recreational activities and transportation.

### Permanency Plan

Finally, workers were asked whether the child had a plan for permanent placement, what the nature of the plan was, and if there was no plan, why not. Of the younger children 17% were either in their own homes or scheduled to return home soon. Return home was the plan for only 13% of the teenagers. Adoption was planned for 24% of the younger children; only 3% of the teenagers were on their way to being adopted. Thus, of all the teenagers in foster care, only 16% had a traditionally acceptable permanency plan. In contrast, many more teenagers (60%) than younger children (27%) were destined to remain in long-term foster care. And for 24% of the teenagers, there was no permanent plan.

Among those teenagers with no future plans the primary reasons given for rejecting adoption were (1) the child's age (17%); (2) the child's wishes not to be adopted (13%); (3) the child's tie to foster parents (12%); and (4) the child's condition (9%). In sharp contrast, the primary reason for younger children not being adopted is parental refusal (12%), not an important factor at all for the teenagers.

The question of providing permanent homes for teenagers is controversial and is discussed more fully in Finding 16. Some adoption advocates told the Task Force that more can and should be done to provide permanent homes for teenagers in foster care. However, in public hearings many more workers and Maine citizens expressed the belief that for teenagers in foster care the Department's focus should not be on achieving a permanent living arrangement but rather on helping the adolescent to develop the emotional stability and skills needed to achieve self-sufficiency.

RECOMMENDATION :

8(a) To help teenagers in foster care develop emotional stability and self-sufficiency skills the Department should:

1. Ensure adequate educational opportunities for teenagers in foster care, including vocational training, remedial education, and non-traditional educational programs.
2. Ensure adequate therapeutic services, including individual and family counseling (see Recommendation 11(d)).
3. Ensure access to job counseling and employment.

8(b) To assure adequate placements for teenagers the Department should develop 150 new placement resources, including additional group home and residential treatment slots, therapeutic foster homes, and single foster parents. (See Recommendation 6(i)).

8(c) In at least one region on a pilot basis the Department should contract out some foster care services for teenagers to one or more private nonprofit agencies. Funding should be provided by the Legislature. (See Finding 25).

FINDING 9: Foster families are undersupported, undertrained and underpaid.

Despite the need for a greater variety of placement options, the heart of Maine's foster care program is and will remain its foster families: approximately 1000 families now caring for almost 1500 children. The Department asks these families to undertake a monumental task: they are expected to provide care 7 days a week, 24 hours a day for troubled children; to treat these children as part of their own family despite the disruption they may cause; to welcome their natural parents and encourage their contact; yet to be ready, if circumstances dictate, to prepare these children for adoption by another family or to adopt them themselves. With such expectations, many foster parents feel, as one testified, "like you're on an emotional yo-yo string."

The quality of care which children in foster homes receive is controversial. Some foster children described their years in care as positive, their foster families as loving and committed. Others described beatings, sexual abuse, and ridicule. Yet after reviewing testimony of social workers, foster children and foster parents, the Task Force believes that the majority of Maine's foster parents are doing an admirable job under adverse circumstances. But the provision of consistent, high quality care by Maine's foster parents is hindered by a lack of support, lack of training, and lack of adequate pay for foster parents.

Lack of Support

Some foster parents testified to having an excellent relationship with Department social workers, but others said that they felt workers were inaccessible and that high worker turnover prevented them from getting the support they needed. Foster parents and workers alike noted that the Department of Human Services has no organized system of respite care for foster parents. Providing continual care for troubled and demanding children, foster parents are allowed no routine time off to regain their strength. This problem is especially serious for foster parents of severely handicapped children.

Furthermore, the Department provides no liability insurance for its foster parents. Although the Department has custody of most foster children, foster parents may be sued by dissatisfied natural parents or others in certain situations, including:

- alienation of affections: claims by the natural parent that the foster parent is biasing the child against him or her,
- injury of a foster child while in the care of the foster parent,
- damage done by a foster child to the property of a neighbor,
- incidental malpractice: failure of the foster parent to provide needed medical treatment, proper diet, etc.

Although a representative of the Maine Foster Parents Association acknowledged that such suits are rare in Maine, she cited examples of cases in other states in which foster parents have been successfully sued. For this reason the Maine Foster Parents Association holds a "mother policy" for foster parent liability insurance with a nationally-known insurance underwriter. Foster parents may buy into this policy for \$16/year. Currently, only 30-40 Maine foster families are covered by such insurance.

One effort to increase support for foster families which has enjoyed some success is the development of statewide and regional Foster Parent Associations. These organizations, supported by the Department of Human Services, have brought foster parents together to share experiences and to seek improvements in the foster care system. Although some of these organizations are just beginning, they may help to counteract the lack of support which foster parents feel from other parts of the community.

### Lack of Training

Lack of training for foster parents is a second factor which works against the provision of high quality care. Given the demands of today's foster

children, the adage, "all you need is love," is no longer true of foster parenting. In between going to work, doing the laundry, and buying the groceries, foster parents are increasingly expected to perform tasks that defy social workers and therapists: healing the wounds of abused and neglected children; dealing with the grief, hostility and defensiveness of their parents; understanding and managing the paradoxical behavior of children in crisis. Foster parents must also understand how to deal with the Department's own policies and bureaucracy, which is often a formidable job.

In all regions the Department offers foster parents an orientation program and some special training. But many foster parents are not satisfied with the orientation or training they receive: in the HSDI survey 56% felt that better orientation to being a foster parent is important; 52% specified the need for more and better on-going training; and 59% felt that they needed more and better training in dealing with special needs children.

Simply offering more training is not a complete solution to the foster parent's difficulties. First, unlike many professions, further training does not mean career advancement; it is one more volunteer activity for people with limited time. Second, the lack of assistance in transportation and babysitting costs adds a further financial and logistical burden. As one foster parent testified, "When you've got a family like mine, you don't just call up the kid down the road and ask her to come babysit. You've got to find someone special."

#### Lack of Adequate Pay

Perhaps the major hindrance to quality foster care is the lack of adequate pay for foster families. Foster parents can be considered professionals who should be paid for services rendered to foster children, but they are now implicitly treated as volunteers to be reimbursed only for expenses incurred. In short, they are expected to perform a professional's service for a volunteer's pay. Many foster parents deny that they even recover their out-of-pocket expenses for a foster child's care.

Foster parents receive a monthly board payment, a monthly clothing allowance, and full medical coverage for the child through Title XIX (Medicaid). Medical coverage is indeed adequate, but foster parents feel strongly that board rates and clothing allowances do not cover expenses, let alone compensate them for their time and effort.

Board payments are set according to 4 categories based on the child's behavior or special needs. As of July, 1980, these rates range between \$139 and \$219 per month. For an "average" foster child, the foster family is expected to provide quality care, 24 hours a day, 7 days a week at \$4.63 per day! Most Mainers pay \$5.00 per day simply to kennel their dogs. It is not surprising that 67% of Maine's foster parents state that higher board rates are necessary. The 5% increase in the board rate which became effective in July, 1980 undoubtedly helped foster parents, but did not bring board reimbursement up to an acceptable level.

Clothing allowances are based on a sliding scale from \$12.00 per month for an infant to \$29.00 per month for teenagers. A substantial number of foster parents (72%) feel that current clothing allowances are inadequate.

In each of the Task Force's regional hearings, foster parents testified that it is not unusual for them to take from their own pockets (and, thus, away from their own families) to provide foster children with the small but important necessities of growing up: school supplies, graduation expenses, hobby and recreational needs, birthday presents, etc. Lacking adequate pay for their services, foster parents often end up subsidizing the state's responsibility to its children out of their own feelings of moral obligation and commitment to children.

#### RECOMMENDATIONS:

##### Support services for foster families:

9(a) The Department of Human Services should provide easily accessible respite care as a regular aspect of foster care for special needs children. Under special circumstances respite care should also be available for foster parents who care for children not designated as having special needs.

9(b) The Legislature should authorize funding for liability insurance for foster parents. The Department of Human Services should either provide such coverage through a policy of its own or reimburse foster parents for coverage under the Maine Foster Parents Association's policy.

9(c) Department staff and the community should provide foster parents, whenever possible, with recognition for a job well done.

Banquets, awards, newspaper features, and spotlighting of foster parents of the month can be used.

9(d) The Department of Human Services should encourage the development of active Foster Parents Associations in all regions and ensure the provision of staff support for the associations.

Training of foster parents:

9(e) The Department of Human Services should develop and implement a certification process for foster families.

This certification process should involve specifying levels of skill which foster parents could attain by attending training programs or equivalent life experiences. Foster parents who attain higher skill levels should receive additional stipends above the basic board rates for foster children.

9(f) The Department of Human Service's Staff Education and Training Unit should develop a comprehensive foster parent training curriculum, including an orientation program, on-going general training, and training in the needs of special children. It should reflect the standards set by the certification process.

9(g) The Bureau of Resource Development should designate one staff member to coordinate implementation of training efforts.

9(h) Each regional DHS office should identify a staff member to be responsible for coordinating training on the local level and for communicating local training needs to the Bureau of Resource Development.

These workers should meet regularly with a representative group of foster parents to identify training needs. They should not be considered as direct service workers in the distribution and computation of caseload size.

9(i) The Department of Human Services should reimburse foster parents for babysitting and transportation costs incurred while attending training or other activities related to their performance as foster parents.

9(j) The Department's Staff Education and Training Unit should discuss with the University of Maine the development of an A.A. degree program in foster parenting.

Payment for foster families:

9(k) Reimbursement for the board and clothing costs of foster children must be increased to cover at least 100% of the cost of caring for the child and a better method must be developed for foster care rate-setting.

The Foster Care Implementation Committee described in the General Recommendations below should study this question further and make specific recommendations by December, 1980.

FINDING 10: Continued involvement of the natural parent is critical if a foster child is to return home. In some cases, Departmental practices and lack of resources may discourage natural parents' involvement with children in foster care.

If a child in foster care is to return home, continued contact between the natural parents and the child must be encouraged. As recently as fifteen years ago, it was generally considered good practice for social workers to adopt an "out of sight, out of mind" approach to the natural family; early visits to the child in foster care were discouraged in order to allow the child time to settle into his or her new home. But recent literature in the field has stressed that contact between natural parent and child is essential to strengthen their bond and to prepare them for living together in a more positive way.

Testimony at public hearings indicated that the role and responsibilities of natural parents in the present child welfare system are matters of substantial controversy. Department workers testified that they are often unfairly asked by the courts repeatedly to facilitate visits to children by unwilling, unresponsive, or disruptive parents. On the other hand, natural parents said they feel disenfranchised by the child welfare system; they have little understanding of the Department's expectations of them or its plans for their child. Foster parents reported conflicting feelings about their relationships with the child's natural parents; they understand the need for contact but some resent the intrusion of the natural parent into their lives. As a result of these conflicts, the Department, the natural parents, and the foster parents often become adversaries rather than people working together to help the child. Children in foster care experience the same problems of divided loyalties as do many children of divorce.

The Task Force concluded that there are three principal barriers to continued contact between natural parents and their children in foster care: (1) Departmental expectations of natural parents are not

clearly communicated; (2) natural parents are not strictly required to pay child support for children in foster care; and (3) natural parents often lack transportation necessary to allow frequent visiting.

### Departmental Expectations of Natural Parents

The Department neither defines nor communicates its expectations of natural parents. As mentioned above, AWPAs standards stress that prior to a child's placement, his or her family should receive a written agreement outlining its responsibilities for the child and a specific visiting plan.<sup>2</sup> (See Recommendation 4(b)). A 1978 study of foster care in Massachusetts recommends that the visiting plan include a written commitment by the parent to continue responsibility for the child in such areas as:

- support payments,
- responsibility for securing medical care,
- contact with the child's school,
- participation in a treatment program for the parent's own problems.<sup>3</sup>

The Department's expectations are not clearly communicated to natural parents either prior to the child's entry into care, or while the child remains in foster care. Without a clear agreement parents feel they must comply with the worker's every request or demand if they ever want their child back home. One parent said this extended to giving a "false confession" that he had abused his child. The HSDI survey of foster children indicated that in only 19% of the cases was the Department actively involved with parents in making plans for their child. This figure includes children who are new in foster care as well as those who have been in care for many years and are not expected to return home. But even when the child had been in foster care for one year or less and return home was the objective, the Department was involved with parents in planning only 28% of the time.

Some foster parents also told the Task Force that expectations concerning their relationship with natural parents are not clearly defined by the Department.

Admittedly, there is apt to be some conflict between the natural parents from whom a child has been taken and the foster parents to whom he or she has been entrusted. Some foster parents voluntarily serve as part of the child's "treatment team": they encourage natural parents to visit, help teach parenting skills, and may even provide support and friendship to the parent after the child has returned home. But many foster parents reported problems in dealing with natural parents. Some testified that they were harrassed by the natural parents; others pointed to regressive behavior of foster children around parental visits, (e.g. bedwetting, destructiveness) and felt that the Department should curtail visits in such cases. In a survey of foster parents almost half (43%) said that they had "some problems" or "many problems" with the parents of children in their care. A total of 64% stated that the Department should clarify or change its policies concerning the role and rights of natural parents.

#### Payment of Child Support

A second factor which deters continued contact between natural parents and their children in foster care is the lack of stringent rules requiring parents to pay child support. Department personnel testified that when parents are required to make even relatively small support payments for their child, they maintain closer contact than parents not required to pay support. Payment of support, like visiting, is a concrete indication to parent and child that they still "belong" to one another. Parents who pay child support are less likely to assume their child is someone else's responsibility. The Task Force also believes that when return home is a goal, parents have a moral and legal obligation to support their child.

Under Maine law and Department policy, support payments may be of two kinds: court-ordered payments, which are set by the district court judge when the Department receives custody; or voluntary payments, which are mutually agreed upon by the parent and the child's social worker. At the time of the foster care survey only 3.1% of natural parents paid court-ordered support for their children. Only 1.4% paid voluntary support. The Department's Division of Child and Family

Services is currently revising Department policy on voluntary and court-ordered support payments to encourage their use.

### Transportation

A final factor which hinders contact between natural parents and their children in foster care is a lack of transportation. Given the scarcity of placement resources and Maine's geographic size, it is often necessary for Department social workers to place children at some distance from their homes. Workers report that approximately 56% of foster children's moves involve a change in geographic area. Because public transportation is non-existent in many regions of the state and many natural parents with limited income have neither cars nor telephones, visiting and communication become a major problem.

Department rules allow the State to reimburse mileage costs of a foster parent who transports a child to visit his or her natural parent, or of a friend or neighbor of a natural parent who transports the parent to visit his or her child. However, the rules prohibit reimbursing natural parents themselves for their own mileage. This prevents some parents with limited income from maintaining contact with their children.

### RECOMMENDATIONS:

10(a) During a child's foster placement the Department should actively use and implement the written agreements with natural parents described in Recommendation 4(b) above.

10(b) To encourage parents to meet their moral and legal obligations and to stay involved with their children in foster care, the Department should develop and implement policies regarding voluntary support agreements and should request court-ordered support in appropriate cases. (See recommendation 3(b)).

10(c) In cases of financial hardship the Department should reimburse natural parents for mileage costs incurred in visiting their children in foster care outside their own community.

10(d) The Bureau of Resource Development should investigate the use of Title XX transportation funds to reimburse natural parents for such mileage costs or to provide transportation directly.

10(e) The Bureau of Resource Development should investigate the use of volunteers to transport natural parents.

Either the Department should hire volunteer coordinators to develop and train a network of volunteers to transport parents or it should use Title XX funds to subcontract with a private transportation agency to provide such volunteer programs.

FINDING 11: Some children in foster care are deprived of opportunities for education, normal emotional development, and adequate preparation for adulthood.

Any child in foster care may be considered at risk, but children who experience multiple placements suffer the greatest disruption of growth. Any change in residence which requires a change in schools may create problems for a child. The problems are greater for foster children because their moves often involve a change in family, lifestyle, and environment as well as a change in schools. With 36% of foster children experiencing 4 placements or more and 56% of children's moves requiring a change in schools, the foster care system does little to enhance even the best student's educational career. For children who enter foster care with a history of school-related problems, matters may go from bad to worse.

The transitory existence of foster children presents a problem for many school systems as well. To school officials foster children are often viewed as short-term students with many special needs, whose parents are not members of the community which supports the school. In some cases school officials are neither informed ahead of time of the new student's arrival nor provided with adequate information concerning the child's educational history.

Several workers and foster parents reported that foster children get a poor reception in school. Some administrators refuse to provide special education services, saying that they had not anticipated the new child's arrival or budgeted for special services. Foster parents have been harrassed for taking children with learning problems into their homes and demanding school services. This causes frustration for the foster parent, hurt for the child, and ill will in the community. On the other hand, some workers and school systems have worked especially hard to give foster children a quality education. Overall, there appears to be little uniformity in the treatment of foster children by local school districts.

In addition to problems at school, foster children often have emotional problems for two reasons. First, they enter foster care because they have been abused or

neglected by their biological families, a traumatic experience in itself. Second, once placed in foster care, they may experience further disorienting moves from home to home. Yet while foster children often have a great need for mental health services, there is substantial public dissatisfaction with existing services.

Social workers and foster parents described long delays in scheduling appointments at community clinics and hesitation among private practitioners to accept medicaid clients due to the cumbersome reimbursement system. Furthermore, medicaid reimburses therapists at a rate which is significantly lower than that which they can receive from non-medicaid clients. The discrepancy adds to the difficulty of finding experienced therapists who are willing to work with foster children.

Mental health practitioners were also dissatisfied with their role in relation to foster children. Some testified that the Department does not refer children for counseling soon enough. Other therapists charged that the Department does not consult them when planning for children in therapy; as a result, plans may be made which are inconsistent with the work done by the therapist. Finally, one therapist stated that Department workers expect mental health workers to be "magicians" who can instantly cure the ills of disturbed children and their multi-problem families. He called for a greater dialogue between Department and community mental health personnel so that both can develop an understanding of each other's roles and abilities.

Another problem for some foster children is lack of adequate preparation for adulthood. There is disagreement about the severity of this problem. Department personnel expressed concern that children who come of age in foster care lack independent living skills. But only 20% of foster parents and 44% of residential treatment center and group home administrators felt that these children were less prepared for adulthood than others. This difference of opinion may reflect the varying experiences of children who have grown up with one stable foster family compared to those who have lived in many homes. For the latter, turning 18 means leaving behind the omnipresent backing of "the State" and entering the adult world with no one to turn to for financial or

emotional support. Lacking the job skills, budgeting skills, social skills, and consumer skills that many children develop through consistent family contact, such adolescents may have a frustrating, unsatisfying early adulthood.

For children in foster care who desire to pursue education or training beyond high school, the Department offers its "V-9" or "extended care" program. Under this program the Department may continue to support foster children while they attend college or vocational training until the age of 21. The Task Force heard two criticisms of this program. First, some foster parents were not aware of the program and therefore could not help their foster children plan for its use. Second, some social workers testified that terminating educational support at age 21 is unfair: this practice tends to leave young adults halfway through a college program with no financial backing for their final years.

#### RECOMMENDATIONS:

##### Education of foster children:

11(a) When a foster child changes schools, the social worker should visit the child's old school and new school to gather and communicate information on the child's history and special educational needs. If visits are not feasible, these matters should be discussed over the telephone.

11(b) For children entering foster care, the Department social worker should encourage and facilitate a visit to the child's new school by the child and his or her natural family.

11(c) The Department social worker should discuss the child's educational history and needs with his or her foster parents.

Once a child is placed in a foster home, the foster parent should assume responsibility for contact with the child's school, with the social worker serving only as a coordinator between old and new schools.

11(d) The Department of Education and Cultural Services should pay for the educational expenses of all foster children who are not in their home district. Payments should be made directly rather than through reimbursement to the local school district.

Mental health services for foster children:

11(e) The Department of Mental Health and Corrections should exercise the full extent of its authority to ensure that community mental health centers provide quality mental health services to foster children and families in which child abuse or neglect is a problem.

11(f) To ensure availability of high quality mental health services for children in foster care, the Legislature should appropriate enough state funds to allow Maine to receive the maximal amount of available federal medicaid funds for mental health services. The Bureau of Medical Assistance should then raise the rate of medicaid reimbursement for therapists.

11(g) To make mental health services available for other individuals who are involved with foster children (e.g., natural parents, foster parents, adoptive parents), the Legislature should appropriate state funds to enable the Department to purchase such services from appropriate private agencies.

Preparation for adulthood:

11(h) The Division of Child and Family Services should continue its current effort to rewrite policy concerning preparation of foster children for independent living.

11(i) The role of the Department in supporting college or vocational training should be clearly outlined in the Foster Parent's Manual.

11(j) The Department should either provide or contract with private agencies to provide support groups for adolescents in care who are approaching age 18. These groups should allow foster children to share their feelings and concerns about leaving foster care and to prepare for their transition to independent living.

11(k) Local Adult Education Services should offer courses for both foster and natural parents on preparing children for adulthood. In addition, school systems should implement or augment Family Life Curriculum to include practical independent living skills such as budgeting, consumer skills, etc.

11(l) The Department's Staff Education and Training Unit should include training on preparation of foster children for adulthood in its foster parent training curriculum. See Recommendation 9 (f).

FINDING 12: The Department lacks any procedure for ensuring that children's cases are reviewed regularly and that timely decisions are made and implemented.

Once a child is placed in foster care, the Department of Human Services provides no assurances that the child's case will be given the careful attention it requires to make the child's stay in foster care as short and as positive as possible. Because no effective mechanism exists to review children's cases regularly, children who do not demand attention frequently receive little.

A consistent theme of Department social workers is, "We spend so much time putting out fires, it's hard to get to the kids who aren't in crisis." As a result, children who might return home or be freed for adoption may stay in foster care because the worker does not have time to achieve those objectives. The foster care survey showed that the case objectives for most children had remained unchanged for more than one year.

At present, the only safeguard the Department offers against children being lost in foster care is review of each worker's cases by his or her supervisor. Department policy requires supervisors to consult frequently with their social workers to provide guidance in handling cases; once every three months for new cases, every six months for children in long-term foster care. Yet several supervisors testified that they are responsible for so many workers that they cannot provide adequate supervision. In each of Maine's 5 Department of Human Services regions, supervisor-to-worker ratios are higher than that recommended by the Child Welfare League of America (see Finding 20).

Furthermore, when supervisory reviews do occur, there is no mechanism which assures that the reviews are thorough and that the decisions made are carried out.

To deal with this problem, many states have implemented formal systems of case review. Case review refers to periodic review of every child in foster care

to ensure that Department workers are continually striving toward an appropriate, permanent placement for each child. An advantage of formal case review systems is that they bring additional expertise and new ideas into the planning process.

One type of formal case review is the administrative review. Administrative reviews are conducted by personnel within the child welfare agency who are not directly involved with a case. According to the American Public Welfare Association, the purpose of an administrative review is to "focus on the appropriateness and adequacy of the service plan."<sup>4</sup> It includes such factors as:

- the agency's goal for the child
- steps necessary to achieve that goal
- resources which may be needed
- role and tasks identified for child, family, foster family, and worker.

Recently passed federal legislation (H.R. 3434) also requires states to implement administrative case review in order to receive federal funds. These reviews are required semi-annually; parents of a child must be notified of the review and may participate in it. They may be conducted solely by agency personnel or include participation of private agency staff on a contract basis.

Maine has no case review system. Department personnel point out that simply identifying which of Maine's 2450 foster children are due for case review at a particular time is a formidable task. An effective administrative review will require a computerized case management system to track foster children and periodically print out the cases ready for review. While no such system currently exists, the Task Force heard testimony that the Department's computer could be used to install one.

Other states have implemented external case reviews, which are not conducted by the child welfare agency. External reviews are typically conducted either by the judiciary or a citizens' group. Judicial case reviews involve a re-examination of the court custody order in light of current circumstances.

Maine's new child welfare statute for the first time mandates a judicial review of children in foster care. Effective July 3, 1980, the law requires the court to review the case of every child at least once within 18 months of entry into care. The judge may then continue state custody or return the child home.

External case reviews conducted by trained, volunteer citizens' groups have had dramatic results. In South Carolina citizens' review boards found permanent placements for 2600 children in two years, increased the number of children freed for adoption by 500%, and sharply decreased time spent in foster care. Before citizen review, only 5.8% of South Carolina's foster children spent less than one year in care; after the review system, 33% spent less than 6 months in care. The system of citizens' review boards cost \$180,000, but saved the state an estimated \$500,000 in 1976 alone.<sup>5</sup>

The Concern for Children in Placement Project (CIP) sponsored by the National Council of Juvenile and Family Court Judges, had similar success. A total of 250 trained volunteers reviewed 4,000 cases in 12 courts across the country. Their mandate was to examine court records of foster children and initiate appropriate court action. The results were dramatic: in Oregon 67%, and in Texas 61%, of the children reviewed were removed from foster care.<sup>6</sup>

At present, Maine does not use citizens to review cases on a statewide basis. However, in some regions multi-disciplinary teams review selected, difficult foster care cases at the request of Department staff. Citizens from other parts of the state expressed an interest in this form of citizen review.

#### RECOMMENDATIONS:

12(a) Each foster child's case should be reviewed by the worker and supervisor every 3 months for the first year and every six months thereafter.

Decisions, plans, and deadlines should be recorded in the child's case record.

12(b) For each region, the Commissioner should establish an Administrative Case Review Unit which is responsible for the semi-annual review of the cases of all children who remain in foster care 6 months or more. The Legislature should provide adequate funds for the functioning of these units.

These units should be composed of Department administrative staff from both Central and Regional offices. Workers and supervisors responsible for the children to be reviewed should also participate. Parents should be notified of reviews and have the option of participation.

Content of the administrative reviews should include:

- consideration of the supervisory reviews recorded on the case plan;
- appropriateness of the agency's goal for the child;
- steps to be taken to reach that goal;
- resources which will help the child reach the goal;
- timeframes and responsibility for all actions specified by the review.

The administrative review unit should establish a way to ensure that decisions, plans, and timeframes are recorded and implemented in a timely fashion.

Reviews must also be implemented on the request of a natural parent, foster parent or foster child.

12(c) The existing computerized information system used by the Department should be programmed to track children in foster care and to print out lists of those due for administrative case review.

12(d) The Legislature should mandate and the Governor should appoint a Foster Care Citizens Review Commission.

The Commission should be divided into sub-groups by DHS region. Appointees should include a balance of professional and non-professional citizens.

Responsibilities of the Commission should include:

- review of randomly-selected foster care cases
- discussion of appropriateness of the Department's plans for the child
- monitoring of implementation of case plans and decisions made on behalf of the child.

The Department is responsible for cooperating with the efforts of the Foster Care Citizens Review Commission or supplying the Commission with case materials from which names have been deleted.

The Department should provide or contract with private agencies to provide adequate training for members of this Commission.

FOOTNOTES

1. Children and Families at Risk in Cumberland County, Report of the Substitute Care Task Force, September, 1979, p. 28.
2. American Public Welfare Association, Standards for Foster Family Service Systems for Public Agencies, p. 37.
3. Allen R. Gruber, Children in Foster Care, p. 191.
4. APWA, op. cit., p. 32.
5. Children's Foster Care Review Board System, Progress Report, p. 1.
6. Children's Defense Fund, Children Without Homes, p. 161-2.



## CHILDREN LEAVING FOSTER CARE

"Ours has been the proverbial uphill climb. We have hollered at each other. We have tested and manipulated each other. We have frustrated each other. We have mistrusted each other. And yet somehow, through it all, we have subtly and painfully come to love each other. I cannot explain the process; I can only feel its awesome presence. As parent and child, as father and son, we have initiated the process of belonging to each other. Not bone of my bone, nor flesh of my flesh, but heart of my heart—a family conceived.

"Ours is still a fetal family, though, embryonic by legislated law. Our birthing rite hinges on court dates and hearings, on approvals, and policies. In my need to give birth, in my child's need to belong after nine "forever" years, we have come to know patience as an elusive taunt. He asked me on the eve of our first year, 'When you gonna 'dopt me?' The truth seemed almost cruel. 'I don't know. I don't know...'"

...testimony of an adoptive parent



FINDING 13: The Department of Human Services is not providing permanent homes for many children who need them.

In public hearings Maine citizens emphasized a point that is well-documented in the social work literature: no matter how loving foster families may be, they cannot provide for most children that sense of belonging which comes from having a "real" family.<sup>1</sup> This realization has contributed to the nationwide movement known as "permanency planning," which in part seeks to find permanent families for foster children.

The report of the Oregon Permanency Planning Project, a demonstration project of the State of Oregon's Children's Service Division, defines permanence in terms of four components:

- (1) intent: A permanent placement is overtly expected to last indefinitely. A child may spend many years in a foster home, and yet not feel that it is home, unless all parties expect and agree it cannot be changed.
- (2) commitment and continuity in relationships: A permanent family is a family forever. But children in foster care may have to leave a familiar family and adapt to a new one because of ordinary life events such as a foster parent's job transfer, death, illness, or advancing age.
- (3) a sense of belonging, rooted in cultural norms and definitive legal status: In American culture biological or adoptive parents are expected to be a child's primary caretakers and protectors. This special relationship is protected by law. In foster care a child's relationship to his or her caretaker is not protected by law and can be more easily disrupted.
- (4) a respected social status: Both biological and adopted children are seen by the community

as "real" members of a family. Foster children are often stigmatized as different: they do not share the last name of the family with whom they live; in some states they must get permission from social workers to apply for a driver's license; they may use special clothing vouchers to do their shopping. Such factors leave foster children feeling like second-class citizens.<sup>2</sup>

For those children for whom permanent placement is an appropriate goal, opinions are divided on the extent to which the Department is succeeding in moving children quickly into stable, secure homes. Maine's foster children tend to fall into two categories: those that enter care but return home fairly quickly, and others who somehow get stuck in foster care for much of their youth.

For some children foster care in Maine is what it should be, a temporary haven from the risk of abuse or neglect. In Region I (Cumberland and York Counties) 1188 children were in the care or custody of the Department at some point during 1979. The program objective for approximately half (52%) of these children was return to their natural families. In 354 of these cases the Department decided to return the child home or to change the case plan objective. Successful return home was accomplished for 83% of these 354 cases (295 children).

While the region I data demonstrate the success of the Department in returning children home during a full year, the HSDI survey of children in foster care as of November, 1979, reveals how many have remained in care for extended periods of time. Only 17% of Maine's foster children had been in care one year or less as of November, 1979. In contrast, 40% had been in care 2-5 years and another 43%, 6-10 years or more. These two studies show that for some foster care is a temporary experience, while for many others it becomes a way of life.

Despite the length of time Maine's foster children have remained in care, Department workers reported that approximately 75% of the children in care in November, 1979 are in permanent placements or are on the way to achieving one within six months. Return home is the plan for 15% of these children; adoption the objective for 12%. For the remaining 48%, plans for permanency vary:

- 10% live with relatives, friends, or neighbors;
- 8% are in or working towards independent living arrangements;
- 30% are in long-term foster care and are expected to stay there.

Some workers testified that long-term foster care does not ensure a "commitment and continuity of relationships." Placements may sometimes seem secure while the foster child is young, but dissolve when the child becomes a more difficult adolescent. In other cases, an unexpected crisis in the foster family may cause them to ask for removal of the child, or a natural parent may reappear after several years' absence and seek custody of the child. For such reasons the Task Force concluded that long-term foster care should not be considered a permanent placement for so many foster children.

In the past year the Department's emphasis on permanency planning has substantially increased. Field consultants from the Oregon Permanency Planning Project are training Department staff in implementing permanency planning concepts and practices. The Substitute Care Consultants in the Division of Child and Family Services are focusing on permanency planning. The Department's current efforts are aimed at two groups of children:

- children who have been in foster care 18 months or more,
- children who are 12 and under who are not expected to return home.

In testimony to the Task Force, workers expressed concern over the Department's current efforts to implement permanency planning for children. Some perceive increased pressure from senior Department officials to move children quickly out of foster care, but do not yet feel concrete administrative support is sufficient for undertaking this effort. Workers stressed that permanency planning involves risks: children returned home prematurely may be seriously harmed; actively pushing for adoption may involve alienating some natural or foster parents. In several hearings workers stated that before they can

successfully implement permanency planning, the community must understand what they are doing and why. The key is a comprehensive community education program, sponsored by the Department, concerning the benefits of permanency planning, the risks it involves, and the role of citizens in such an effort.

RECOMMENDATIONS:

13(a) The Task Force endorses the current efforts of the Department of Human Services to implement permanency planning for children in foster care.

To make this effort more effective, it should be accompanied by strong administrative support for staff and a comprehensive community education program to inform the public about permanency planning, its risks and benefits.

13(b) The Foster Care Implementation Committee described in the General Recommendations below should monitor the Department's efforts over the next year and report to the Governor and Commissioner by Labor Day, 1981.

FINDING 14: Lack of clear Departmental guidelines and appropriate community treatment services add to the difficulty of returning many foster children safely to their natural families.

Under Maine law a child may be removed from the custody of his parents if the court finds him to be in "circumstances of jeopardy to his health or welfare." 22 M.R.S.A. §4035. For children to be returned home, the circumstances which caused the jeopardy must be removed. Workers know that in deciding to return a child home an error in judgment can have grave consequences: serious harm, or even death, to the child. Thus, many workers say they tend to be cautious, preferring to err in favor of maintaining a child in foster care rather than petitioning the court for a return home that may be premature.

#### Departmental Guidelines

These consequences must be weighed against the risk of emotional harm which a lengthy, but "temporary" placement can create. Department workers, foster parents, and mental health professionals all testified that procedures or criteria are needed to guide the worker in assessing whether to return a child home. The Oregon Project suggested two general criteria:

- Does the child's home meet the minimum sufficient level of care?
- Where does the child feel that he or she belongs?<sup>3</sup>

The Oregon Project handbook, Permanent Planning for Children in Foster Care, contains concrete guidelines for social workers in evaluating return home. Although there are dangers in following any guidelines too literally, the Task Force believes that similar criteria are needed to enable workers to determine safely, promptly, and fairly the best objective for each child in care.

## Community Treatment Services

Increasing the number of foster children who return to their families requires a way of resolving the problems which first led to removal. Circumstances which cause parents to abuse or neglect their children rarely "disappear" by themselves; the abusive or neglectful parent cannot usually change this pattern without help. However, recent research suggests that traditional therapeutic approaches have had little success in helping families overcome abuse and neglect.

In a recent article Anne Harris Cohn reviewed eleven three-year projects for the treatment of abusive or neglectful parents. Her findings are discouraging:

- Even while families were receiving counseling and other forms of treatment, the reincidence of serious child abuse and neglect was high (30%);
- less than half (42%) of parents who received treatment were found to have a "reduced potential for future abuse or neglect;"
- parents who neglected their children were less successfully treated than those who abused them; and
- the more severe the initial problem, the less likely parents were to succeed in treatment.<sup>4</sup>

These findings have pessimistic implications for Maine's foster children. They indicate, first, that despite participation in highly-structured treatment programs, those parents who have abused or neglected their children in the past tend to continue. Secondly, neglect was found more difficult to treat than abuse; significantly, a large percentage of Maine's foster children (43%) enter care due to parental neglect.

Cohn's study concluded that treatment programs using "non-traditional," community-based resources were more successful than those which offered only individual therapy. For example, Parents Anonymous, a self-help group for abusive or neglectful parents, has reported tremendous success in the treatment of child abuse and neglect. The use of lay counselors and

volunteer parent aides, who serve as a "friend, support, and social contact" to troubled parents, was also shown to be highly effective.<sup>5</sup>

Such community resources for the treatment of abuse and neglect are scarce in Maine. Parents Anonymous now has 13 active chapters, serving approximately 100 members, and an additional four chapters being developed. Maine has 8 community mental health centers, which range from highly innovative to fairly traditional in their approaches to child abuse and neglect. At present, only one private social service project in Maine deals exclusively with this problem; several others have contracts to provide limited treatment services. However, for many parents of foster children the only rehabilitative services available are provided by the Protective or Substitute Care workers assigned to their child.

These findings support the judgment of Department workers, who reported that for 36% of children without a permanent plan, continuing parental problems were a reason for not returning them home. Lack of Department or community services was given as a reason for 20% of the children. These findings may also explain why 20% of foster children have returned home and been re-committed to the custody of the State at least once. A study conducted by Sweetser Children's Home showed that over half the children discharged still needed support three years later. Reducing or eliminating jeopardy is difficult to achieve in any case, but it is especially difficult in the absence of clear Departmental guidelines and appropriate community treatment services which are available in other states.

RECOMMENDATIONS:

14(a) The Department of Human Services should adopt the Oregon Project's criteria for "minimum sufficient level of care" necessary to return children home or develop similar criteria.

Workers and supervisors should receive training in the application of these criteria.

14(b) The Bureau of resource development should contract with private homemaker agencies, or other interested private agencies to implement volunteer parent aide programs.

Training should be provided for the parent aides in working with the Department and with troubled families. Whenever possible, parent aides should be peers of the abusing or neglectful family.

14(c) The Department should continue its support of Parents Anonymous.

The Department should continue to support Parents Anonymous' statewide organization with Title XX funds. Where Parents Anonymous chapters exist, workers should be encouraged to refer all appropriate clients. In areas where no chapters exist, the Department should encourage qualified individuals in the community (mental health workers, teachers, etc.) to sponsor a chapter.

FINDING 15: Attitudinal, administrative, legal, and judicial obstacles generally delay and often prevent the freeing of foster children for adoption.

When a child cannot return to his or her natural family, adoption is generally the next best alternative. A child who is adopted has the security of legally recognized, socially accepted membership in a permanent family. In Maine, successful adoption of a foster child entails 5 major steps:

- (1) making adoption the objective: The Substitute Care worker and his or her supervisor must decide after work with the biological parent that return home is not feasible, that circumstances are unlikely to change in the foreseeable future, and that adoption is in the best interest of the child.
- (2) freeing the child for adoption: This process involves, first, an administrative procedure carried out by the Department and designed to ensure that the case is in order for hearing in court; and, second, the court hearing and judicial decision to terminate the parental rights of the natural parent.
- (3) selecting an adoptive family: This step involves choosing a family who is interested in adopting a particular child and whose lifestyle and wishes are compatible with the needs of the child.
- (4) placing of the child: This process involves the careful preparation of child and family for their new life together.
- (5) providing follow-up services for child and family: These services help the child and family adjust to one another and iron out any problems that may arise.

Each step of this process is critical to a successful adoption. In Maine, however, obstacles arise at each stage.

## Making Adoption the Objective

For some children adoption is ruled out in the decision-making stage. The worker may believe that the child is not a suitable candidate for adoption because of his or her condition or situation or that the risks of attempting adoption are too great.

Adoption is ruled out for some children because of their emotional, behavioral, or physical characteristics. Workers cited the age, handicapping condition, emotional ties, or wishes of the child as a reason for rejecting adoption for 45% of the children without a permanent placement objective.

Yet nationally the class of children perceived as "adoptable" has expanded dramatically in recent years. While 15 years ago only healthy, white infants under the age of 2 were considered likely candidates for adoption, innovative private adoption agencies have altered this belief. These agencies have demonstrated conclusively that with proper preparation of child and family, many of the following children can successfully be placed in adoptive homes: older children (including teenagers), children with moderate or severe emotional and physical handicaps, minority or mixed-racial children, and groups of siblings.

Testimony to the Task Force clearly demonstrated that there are many families in Maine who have adopted or are willing to adopt hard-to-place children. Most families who have already adopted hard-to-place children got them from other states, because such children were not freed for adoption in Maine.

For some children workers rule out adoption because the risks appear to outweigh the potential benefits. One risk described by workers is that their own lack of training in preparing foster children for adoption increases the chances that the adoption will fail. Another risk is the possibility that the natural parent will reappear as a negative influence in the child's life when notified of the decision to move toward adoption. The Task Force heard of several cases in which a natural parent who had not contacted the child for years nevertheless objected to freeing the child for adoption and attempted to resume a parenting relationship. The abrupt return of a natural parent

who has not been part of a child's life for years may be more painful than remaining in foster care. For this reason both workers and foster parents are afraid to "rock the boat."

This fear is accentuated by workers' perceptions that judges tend to return children to their biological parents if there is even the slightest hope of reconciliation. Thus, workers tend to believe that if the natural parent contests the adoption, the child may be moved back from a good foster home to an unsuitable natural parent. In fact, the HSDI survey of Maine's District and Probate Court judges revealed that 58% were generally predisposed towards placing a child with his or her natural parent rather than freeing the child for adoption or maintaining him or her in foster care. None of the judges acknowledged such a predisposition toward adoption or long term foster care.

#### Freeing for Adoption: The Administrative Process

If a worker decides to pursue adoption, the child must be legally "cleared" in accordance with the Department's Approved Policy Statement 66. This policy was revised in June, 1980, to make it consistent with the new child welfare statute passed by the 109th Legislature.

Many workers believe the paperwork necessary to clear a child for adoption is unwieldy and time-consuming. For example, until recently the adoption summary and legal clearance form required seven signatures: the worker, the unit manager, the Assistant Regional Director, the Assistant Attorney General, the Substitute Care Consultant, the Director of the Bureau of Resource Development, and the Commissioner of Human Services. In the revised policy the number of required signatures is reduced.

Workers also objected to obtaining the "long form" of the child's birth certificate and verification of all marriages and divorces of both parents. Central Office personnel defended such verifications on the ground that they minimize the chance of a child's adoption being contested later. In their opinion this possibility and its potential harm to the child outweighs the delay caused by the need to secure proper verification.

In addition, workers have until recently received little training in handling the administrative aspects of adoption. Rapid changes in adoption law and policy have created confusion and required many cases to be reprocessed. However, Central Office staff are now providing training consistent with the revised adoption policy in all regions.

#### Freeing for Adoption: The Judicial Process

Once a worker has obtained the Department's approval to pursue adoption, the case must be filed in court. Adoption cases are handled by Assistant Attorneys General assigned to the Department of Human Services. Regional personnel from across the State emphasized that inadequate legal support is a significant factor hindering the adoption of more foster children. In reviewing their November, 1979, caseloads, workers identified approximately 6% of the children (150 children statewide) who could be freed for adoption if they received more accessible legal services.

Under the new child welfare law (P.L. 1979, Chapter 733), effective July, 1980, Maine has, for the first time, a distinct legal procedure for terminating parental rights. Previously, termination was effected as part of the adoption proceedings themselves. The new procedure ends the legal relationship of biological parent and child before an adoptive home has been found. While this new provision expedites the adoption process, the Task Force believes that the specified grounds for termination are too narrow and that the standard is too strict. Under 22 M.R.S.A. §4055, a parent's rights may now be terminated if the court finds based on "clear and convincing evidence" that he or she is:

- unable or unwilling to protect the child from jeopardy;
- unlikely to change in a reasonable time; and
- termination is in the best interest of the child.

Many think that "clear and convincing evidence" will be too difficult to establish, especially when parents are absent, and that "preponderance of the

evidence" is sufficiently protective of parental rights while far more sensitive to the best interest of Maine's children. Also, the Maine law does not explicitly provide that abandonment or desertion may be grounds for termination. In the Oregon statutes, abandonment refers to situations in which a parent's words or actions indicate an intention never to resume care of the child. Desertion means that a parent has been absent or has had only incidental contact with the child for one year or more.<sup>6</sup> The Task Force concluded that adding abandonment and desertion as grounds for termination might facilitate the adoption of children who remain in care for years with no meaningful parental contact.

### Selecting an Adoptive Family

Adoptive parents for healthy, white infants do not need to be recruited; such families far outnumber available children. But once more children are freed, it will be necessary to recruit families for children with special needs. The recruitment process must include (1) a community education program to encourage the adoption of special needs children; (2) relaxation of eligibility requirements for families willing to adopt such children; and (3) adequate financial support.

Community education may include the following:

- a listing service or adoption exchange: Adoption exchanges compile, publish, and distribute pictures and descriptions of children to be shown to prospective adoptive families. Adoption exchanges have been used successfully in several states, including Massachusetts, Ohio, and Connecticut. Regional and national exchanges also exist. The Division of Child and Family Services has recently begun publishing Maine's first picture listing service.
- media advertising: In some states children who are free for adoption are advertised on TV or in the newspaper. In Georgia, a TV station regularly shows film footage of a waiting child as a feature of its evening news program. The Boston Globe runs a picture and description of an adoptable child each Sunday

in its Family section. Although some people object to this approach to child placement, it exposes the child to a large number of potential adoptive parents; it also teaches the community that handicapped children can be adopted successfully. Department personnel feel that this technique may be useful when more children are freed for adoption. They are looking into media advertising to determine appropriateness and cost.

- adoptive parents' groups: The best advertisements for the adoption of special needs children are families who have successfully adopted them. In some states (Ohio, for example), volunteer groups of adoptive parents work with the child welfare agency to recruit others. Several adoptive parents' groups are now being formed in Maine and some parents expressed an interest in such a recruitment effort.

Placing special needs children can also be facilitated by relaxing eligibility criteria. In the past the Department may have "screened families out," because adoptive parents far outnumbered adoptable children. As more older or handicapped children are freed for adoption, however, adoption advocates feel the Department should "screen families in" by relaxing some eligibility requirements to encourage families to participate.

Eligibility requirements are contained in the Department's "Policy on Adoption Screenings and Studies," which establish minimum statewide standards for adoptive families. Regional offices "may set more limiting standards to deal with the availability of children for adoption in relation to the number of requests from prospective applicants . . . (with) the approval of the Commissioner or his designee."

Division of Child and Family Services personnel believe that eligibility requirements concerning age, marital status and health are reasonable, but agreed that regional staff may adopt interpretations which screen some families out. The policy permits exceptions to the requirements upon written request by the worker.

Adoption subsidies are critical to the placement of special needs children; they are used to some extent in Maine and 41 other states. There are 4 basic types:

- Medical subsidies cover the child's medical expenses after adoption, either for a limited period (e.g., for a specific operation) or indefinitely (e.g., for a serious illness or handicap, such as cerebral palsy or muscular dystrophy.)
- Therapeutic subsidies cover a child's mental health treatment, again either on a short or long-term basis.
- Maintenance subsidies are similar to the room and board payments which foster families receive. They are based on the financial needs of the family and allow families of low income to adopt without reducing the family's standard of living.
- Special subsidies are one-time payments for unusual placement expenses, such as the cost of the adoption proceedings or buying 3 or 4 beds for adopted siblings.

Adoptive parents who testified against adoption subsidies felt that such payments would make the adopted child feel "like a boarder in your home." But proponents of adoption subsidies said that often a foster family caring for a child with special needs cannot assume the financial burden of that child. Without subsidies such children often stay in foster care; with subsidies many could find permanent families at less cost to the State than extended foster care.

Maine's Adoption Subsidy Act (19 M.R.S.A. §541-544) was enacted in 1975 and amended in 1979. It allows the Department to "subsidize the adoption of children in its care and custody who are legally eligible for adoption and who are physically or mentally handicapped, emotionally disturbed, or who by virtue of age or sibling relationship otherwise may not be adopted." The Department's rules and regulations for administering the program are contained in the document, "Law Providing for Subsidized Adoption Program and Rules Pertaining Thereto." Instructions on implementing this program are contained in the Department's Approved Policy Statement 112.

The Adoption Subsidy Program has been criticized on the grounds, first, that eligibility requirements are too strict, and second, that funding is too low.

Eligibility for a subsidy is based on the needs of the child and the resources of the adopting family. A child is eligible if he or she is in the Department's custody, legally free for adoption, and has a handicapping condition or situation which makes him or her hard to place. Eligible families must meet all of the Department's criteria for adoption of non-subsidized children. They must also have a minimum income not less than the Lower Income Standard for Urban United States Families, and a maximum income not more than the Intermediate Income Standard, as determined annually by the U.S. Department of Labor.

The requirement of a minimum income level has been sharply criticized. Many citizens testified that rules making a family too poor to qualify for a subsidy discourage excellent low income and minority families from adopting children. Department personnel argued that the minimum income requirement is intended to ensure that an adoptive family can adequately meet the needs of all existing members before adopting others.

The Task Force found that funds allocated each child for the adoption subsidy program are too low. First, the law provides that the subsidy may not exceed the cost to the State of caring for the child in foster care. But many costs of foster care are paid from federal funds. When a child is adopted, the State loses the large federal share of AFDC foster care payments and all Title XIX (Medicaid) funds. Thus, the amount available for an adoption subsidy is limited to the smaller, state share of a child's foster care costs plus whatever the Legislature appropriates directly for the adoption subsidy. The Legislature appropriated only \$17,500 for the adoption subsidy programs in 1979-80 and again in 1980-81.

Maine's subsidized adoption program provides medical, therapeutic, maintenance, and special subsidies. However, critics point out that money for medical and therapeutic services is limited to the projected cost of board and clothing if the child were to remain in foster care (and the family receives no other type of subsidy) or to \$500 if the family also receives a long-term (maintenance) subsidy. These costs are not sufficient to cover the medical or therapeutic expenses of severely handicapped children. Furthermore, adoption advocates believe eligibility for these subsidies should be tied only to the needs of the child, not to the income of the adoptive family.

The most effective method of providing medical and therapeutic services to special needs children who are adopted is to change Medicaid eligibility rules so that a foster child would remain eligible for Medicaid even after adoption, regardless of the income of the adoptive family. Recently - approved federal legislation, H.R. 3434, would allow this to happen. This act is the product of four years of research and advocacy work by a coalition of groups interested in children in out-of-home placements.

In an HSDI survey of foster parents, approximately 32% of the parents who would consider adopting a special needs child indicated that an adequate adoption subsidy would be necessary. Yet, Department personnel point out that much of the current subsidy appropriation has not been spent. This apparent contradiction may reflect the scarcity of foster children actually free for adoption or the insignificant amount of the monthly subsidy now available in Maine.

The final two components of the adoption process are placing the child and providing follow-up services. Private agencies have made extensive efforts in recent years to design follow-up services. They have worked with children to develop "life history books" to help them to make sense of the adoption experience; they have developed carefully choreographed scenarios for introducing children to potential adoptive families; they have explored the problem of "disruption," adoptions that fail. As state agencies have moved toward finding adoptive homes for special needs children, they have had to learn from the experience of private agencies. Nevertheless, adoption advocates do not see lack of placement and follow-up expertise as a major problem in Maine. As one adoption worker testified, "The major barrier to adoption in Maine is the lack of legally clear children. If the Department can free the children, the rest will follow."

RECOMMENDATIONS:

15(a) The 110th Legislature should amend 22 M.R.S.A. §4055, by changing the standard from "clear and convincing" evidence to "preponderance of the evidence" and by including abandonment and desertion as grounds for termination of parental rights.

"Abandonment" should be defined as demonstrating through words or actions the intent never to resume care of a child. "Desertion" should be defined as having no contact or only incidental contact with a child for a period of one year or more.

15(b) Either an Assistant Attorney General should be assigned to each region to work on adoption (and all other child welfare) cases or the Department should explore contracting with private attorneys to provide these legal services.

In either case, attorneys should be subject to supervision of the Department's Legal Services Section Chief. See also Recommendation 23(c).

15(c) The Department should implement on-going training of direct service workers and supervisors in freeing children for adoption. This training should include administrative, legal, and social/emotional aspects of this process.

15(d) The Task Force endorses the current effort of the Division of Child and Family Services to develop policy concerning "legal-risk adoptions" and the consideration of such cases on a case-by-case basis until the policy is implemented.

Legal-risk adoptions refer to the placing of a child with an adoptive family when the child is not completely legally clear. It is generally used when the child's adoptive clearance is held up due to a technicality.

15(e) The Chief Justice should explore options for implementing special programs for judges to inform them about the national movement for permanency planning for foster children. The Department of Human Services should offer assistance in the preparation of such programs. (See Recommendation 24(b)).

15(f) The Task Force endorses the current efforts of the Division of Child and Family Services to implement a statewide listing service for adoptable children. Representatives of DHS regional staff and adoptive parents' groups should continue to be involved in this process.

15(g) All children who are legally freed for adoption should be listed on the state listing service if a suitable home is not found within three months of the child's legal clearance.

Children who do not have permanent homes within 6 months should be listed in regional and then national adoption exchanges.

15(h) The Division of Child and Family Services should arrange media coverage to publicize specific children who are awaiting families. Newspaper, radio, and television coverage should be employed.

15(i) Representatives of the Division of Child and Family Services and Division of Licensing should meet with representatives of adoptive parents' groups, private adoption agencies, and Department regional staff to examine rules for licensing of child-placing agencies with adoption programs and the Department's policies regarding eligibility guidelines for adoptive families. This group should determine whether such guidelines should be made more flexible.

15(j) Representatives of the Bureau of Resource Development, Department regional staff, and private adoption agencies should explore the feasibility of purchase-of-service arrangements covering various components of the adoptive process.

This group should make recommendations to the Commissioner concerning changes in eligibility requirements (including the minimum income requirement) which discourage the program's use.

15(k) The Division of Child and Family Services, along with representatives of DHS regional staff, foster parents, and adoptive parents, should review current rules pertaining to the adoption subsidy program.

This group should make recommendations to the Commissioner concerning changes in eligibility requirements (including the minimum income requirement) which discourage the program's use.

FINDING 16: For some children, developing a good permanent living arrangement presents a special challenge.

Despite current efforts to find permanent placements for Maine's foster children, there will always be some children for whom neither return home nor adoption is appropriate. Adolescents who enter foster care in conflict with their own family sometimes refuse to try another family. Similarly, some children have strong allegiances to their biological families, even though they can never receive adequate care from those families. Finally, there is a small group, much smaller than previously thought, of severely handicapped children for whom adoption is not realistic. For all of these children, the development of placements that are as permanent as possible is a nationwide problem.

For some adolescents in foster care the objective of a permanent placement (meaning return to family or adoption) is in practice simply unattainable. As one Substitute Care worker told the Task Force:

"My whole caseload consists of teenagers. And for the teenagers I work with, maintaining one placement for the weekend is often my definition of permanency. From there it's one week; and if I'm lucky, one month."

As discussed in Finding 8, these youth have different experiences and needs than younger children. The Task Force concluded that an objective of return home or traditional adoption for these children may often fail.

In some cases, return home and adoption may be inappropriate for children with continuing ties to their natural family. Workers recently reported that for approximately 20% of the children without permanent plans who could not return home, adoption was rejected because of the child's attachment to siblings or parents. Many workers believe that long-term foster care, despite its drawbacks, is the best alternative for these children because it allows a continuing visiting relationship with family members.

Finally, long-term care is the only choice at present for severely handicapped children. In these cases the Department should work to make long-term foster care more secure so that these children will not be further handicapped by multiple placements.

The road to permanency for these children is far from clear. Several alternatives are being examined and implemented on a small scale, in Maine and around the nation. These include:

- (1) Open adoption: In open adoption the child's adoptive parents have all parental rights, but agree to allow natural parents to visit their biological child. Open adoption may be a workable solution for older children who need a permanent, nurturing family, but have a continuing relationship with their original families.

Its detractors point out that this arrangement can create stress for the adoptive family and that it may be difficult to recruit adoptive families willing to share a child in this manner.

- (2) Subsidized custody: Under this arrangement, legal custody of a foster child is transferred from the Department of Human Services to another individual, perhaps the child's foster parent or a relative. The custodian has powers similar to those that the Department has for a foster child (signing for medical treatment, a driver's license, granting permission for marriage of a minor, etc.) and receives a subsidy if needed. Because the natural parent's rights have not been terminated, the child cannot be adopted and the natural parent retains visitation rights.

The advantage of subsidized custody is that it eliminates the stigma of being a "State kid" and reduces the number of parties involved with the child from three (Department, foster parent or relative, natural parent) to two (custodian and natural parent). The primary disadvantage is that the custodian and natural parent may come into conflict over a child without the Department being available as a

mediator. Thus, its success depends on the voluntary cooperation of custodian and natural parent.

Under Maine law, the District Court can award custody of a child to parties other than the Department or the natural parent. There is no provision now in federal or state law for the custodian to receive a subsidy for care of the child.

- (3) Emancipation: Emancipation by a court confers adult status on an individual under the age of 18. Like an adult the emancipated youth may sign contracts and is responsible for his or her debts. For foster children, this process may be the culmination of work with the Department over several years to develop the self-sufficiency skills needed for independent living.

An advantage of emancipation is that it recognizes the need and ability of many adolescents to take responsibility for their own lives and well-being. A disadvantage is that such youth may enter adulthood without any family or other adults to rely on for help when needed.

Emancipation is permitted under Maine law for people who are age 16 and 17.

- (4) Formalized long-term foster care: In this situation the worker develops an agreement which is signed by foster parents, natural parents, worker and the child. While not legally binding, the agreement states the group's intent that the child will grow up in the foster parent's home and defines the roles and responsibilities of all parties.

Long-term foster care is controversial. Some believe that for children who cannot return home or be adopted, formalized long-term foster care offers a feeling of security and commitment. Others argue that the process is misleading because the agreement can be broken at any time by any party.

Long-term foster care is recognized under Maine law and policy. However, formalized long-term foster care contracts are not generally used.

These options are variations upon the theme of permanency and may be suited to children with non-traditional needs. Department personnel and citizens agreed that these alternatives do not offer the best permanent placements in most cases. Because Maine's foster children are unique individuals, the Task Force endorses the availability of a wide range of choices in the hope that Department personnel will implement the plan that is most clearly in the best interests of each child.

RECOMMENDATIONS:

16(a) In appropriate cases, the Department should implement or expand its use of the following options:

- open adoption: an arrangement in which the adoptive parent has all the rights of parenthood but the child may continue to maintain a relationship with his or her natural family.
- subsidized custody: an arrangement in which custody of the child is transferred from the Department to another individual (e.g., foster parent or relative) without termination of the natural parent's rights. The Commissioner should develop a proposal for funding these subsidies.
- emancipation: an arrangement in which the Department works with an adolescent to develop self-sufficiency skills and the court confers adult status upon the youth, age 16 or 17.
- formalized long-term foster care: an arrangement in which the Department uses a written agreement between worker, foster parents, natural parents, and child to develop a sense of commitment and mutually agreed expectations. The Department should not change long-term care agreements without consulting all parties.

## FOOTNOTES

1. See Arthur Emlen et. al., Overcoming Barriers to Planning for Children in Foster Care, p. 9., for a lengthy bibliography of articles citing the need for permanency planning.
2. Ibid., pp. 10-11.
3. Ibid., pp. 14-15
4. Anne Harris Cohn, "Effective Treatment of Child Abuse and Neglect," Social Work, November, 1979, pp. 513-516.
5. Ibid., p. 516.
6. Emlen, op. cit., p. 2.

#### FOSTER CARE PERSONNEL

*"Working as a Department social worker is like being a circus entertainer who balances dishes on the ends of poles. You have an enormous number of dishes spinning away which you have to keep rushing about to keep spinning...and there's a guy on the end of the line setting up more dishes on more poles for you to take care of...and you're expected to sit down and do dictation between spins. (And what we're supposed to do is put enough poles under each dish so that they can stand up without our help. However, we have no spare poles.)"*

...submitted by a Department administrator



FINDING 17: The State Personnel System's hiring process causes undue delays in filling vacancies and prevents the Department from hiring the best qualified people.

The Task Force found that the Department's ability to run its foster care program is seriously and adversely affected by the State Personnel System, which creates unnecessary delays in filling staff vacancies and discourages the hiring of the best qualified people. The Department is caught in a double bind whenever it needs to hire a child protective or substitute care worker. It cannot hire people outside state government without first eliminating all "qualified" government employees who may want the job. Yet the criteria used to "qualify" state workers are extremely low by professional social work standards. Thus, the system suffers from a reduced pool of applicants from which to choose and eligibility criteria which do not reflect the true difficulty of the job.

#### Hiring Procedures

In order to fill a vacancy regional staff must receive approval first from Central Office, and then from the Department of Personnel. If approved, the Department of Personnel prepares a list of six certified candidates for the job, those who have passed the test and possess the State's definition of the requisite education and/or experience.

If there are six people currently employed by the Department of Human Services seeking promotion who have the specified education and experience for the job (e.g. Human Services Worker I), no other names will appear on the list. The collective bargaining agreements with state workers establish this preference for agency promotion. Other preferences are given, in order, to government workers from other departments seeking promotion, former government employees, and government employees seeking only lateral transfers. In

general, a list containing applicants without prior government experience (the "open competitive register") will be presented to regional staff only if there is no "qualified" candidate willing to take the job from the applicants who have preference.

Thus, only on rare occasions is a child protective or substitute care position opened to candidates from outside state government. It is common for AFDC eligibility workers, who are formally classified as Income Maintenance Technicians, to apply for child welfare positions. The "qualifications" for Human Service Worker I positions, which include licensing and planning jobs, are only (1) a high school education, (2) four years of further education or experience, and (3) passing a state test. Many technicians qualify for the available positions, thus negating the chances for outsiders.

The Department can theoretically ask Personnel for an "open competitive register" when the vacancy occurs, but such a request can be rarely granted and only in special circumstances because of restrictions in the union contracts. Because of the sensitive nature of child welfare work and the skills required to do it effectively, the quality of Protective Services and Substitute Care staff should be substantially upgraded by opening all such positions to open competition.

As a result of this process, promotions and transfers are the easiest route to protective and substitute care positions. Of the Department's direct service workers 51% transferred laterally or were promoted to their first foster care job. The figure may be higher for those who have been hired only in the last few years. Promotions and transfers do not produce well prepared workers. Only 15% of direct service staff say they felt well prepared for their first foster care job.

The effect of this hiring process is that only people from outside state government who are willing to accept a job below their abilities have a realistic chance of eventually becoming child welfare workers. Good candidates are effectively discouraged from applying. The Personnel Director of Region I reports that "if a person with an M.S.W. calls me for a job I cannot even give him or her an interview. I have to send the person to State Personnel and tell her she has a 50 percent chance to come in as a technician."

If applicants with an interest in child welfare work become technicians, the Income Maintenance and Food Stamp programs which use technicians are often disrupted. As soon as a child welfare position becomes available, these people apply. The Personnel Director said that "one time a qualified person started as a technician on Monday and her name showed up on a certification list on Tuesday for a protective opening. She hadn't even warmed the seat yet."

### Delays in Hiring

For several years the inevitable delays built into the state personnel system have been accentuated by additional procedures designed to control expenditures. Before a substitute care vacancy could be filled, regional staff had to prepare and submit an "exception request." The request documented the need to fill the job. It had to be approved in turn by Central Office, the Department of Personnel and the Governor's office. In July, 1980 the Governor issued a long-range personnel policy which says that the Department can fill 95% of authorized positions as of July 1. Commissioners determine, within these limits, which need to be filled. Once approved by the Commissioner, the Department of Personnel will then prepare a list of applicants. In the meantime, the worker whose job is being filled typically had a caseload of over 30 children who must be assigned on a temporary basis to another over-burdened worker.

The standard hiring process and the exception request procedure caused substantial delays in filling vacancies. It can still take from 3 to 6 weeks to receive a list from the Department of Personnel. Often the lists are outdated or the applicant lives too far away or wanted a licensing or planning position rather than a child welfare job. (The formal classification "Human Service Worker" includes all of these positions.) Another 4 or 5 weeks can pass before an applicant can be hired and report to work. One region reported that in the past year 28 worker weeks, the equivalent of more than one-half a year for 1 person, were lost just in filling vacancies. This does not take account of the time needed to orient and train new people.

## Qualifications

Low educational requirements and state hiring procedures have produced a child welfare staff of varied abilities. The 1980 survey of the Department's substitute care staff showed that 94% had a college degree. But only 6% of direct service staff have graduate degrees in social work.

It is illuminating to compare the qualifications for state child welfare positions with those for social workers who wish to practice independently. Private social workers are registered and certified by the State Board of Social Worker Registration.

The Board establishes three sets of criteria: to be licensed as a Certified social worker, an individual must have a Master's or Doctorate in social work and pass an exam administered by the Board; to be licensed as a Registered social worker, an individual must have a Bachelor's in social work or social welfare, one year of work experience and pass an exam; to be licensed as an Associate social worker, an individual must have either (1) a Bachelor's, two years of social work experience and pass a test or (2) six years of social work experience and pass a test.

Department social workers are exempt from registration, but the criteria for an entry level caseworker are below even that of the Associate social worker. The lower State qualifications exist even though state workers, unlike their private counterparts, participate in critical decisions regarding the fate of a child removed from its natural parents.

During 1980 the New England Resource Center for Child Protective Services (NERCPS) is studying the personnel classification for Maine's Division of Child and Family Services. The Commissioner of Human Services, in a June 1980 memo which results from the NERCPS's study, recommends a minimum of five years of "related education, experience, and training" for substitute care workers. This is one year more than the current requirement but still unacceptable by Task Force standards. The NERCPS consultant concurs with the Task Force that neither the tests administered by the Department of Personnel nor the educational requirements now in use provide adequate measures of a person's potential ability to perform well at these jobs. This problem is compounded when the pool of

applicants from which the Department can choose is limited essentially to people already in state government.

### Managers

Another problem in filling job openings is that there is little incentive for experienced human services workers to accept positions as Managers. The top salary for a direct service caseworker (effective July 1, 1980), a person with six or more years of experience ranked as a Human Services Worker III, is \$347 a week. Such a worker is eligible to receive time and a half for overtime (\$13 per hour). Moving to a casework supervisory position (Manager I) would increase the pay by \$19 to \$366. However, Managers are not eligible for overtime, and have more responsibility on the job. Thus, a worker putting in an hour and a half overtime per week would earn as much as a Manager but have less responsibility. Further, Managers usually work a minimum of two or three hours a week overtime themselves and are called after hours as frequently as direct service workers. Finally, it is extremely difficult to move from a Manager I to II because very few are authorized (Region I reported only one Manager II opening in the past four years). For these reasons it is often difficult to attract people to Manager I positions.

### RECOMMENDATIONS:

17(a) Regional Directors should be allowed to authorize vacancies to be filled without seeking Central Office or Commissioner approval.

The Commissioner informs the regions annually of the number of positions each can maintain; case-by-case approval would not be needed thereafter.

17(b) To ensure that the Department has access to the broadest range of qualified people in filling child protective and substitute care vacancies, the Unions and Department of Personnel should allow any candidate, either from within or without state government, to be certified to the register on an equal basis.

17(c) The Department of Personnel should keep its applicant registers current by requiring people whose names appear to write in annually if they wish to stay on the list, and purging those who do not; and by advertising at least quarterly to bring new people onto the register. It should also dispatch registers with speed to those who request them.

17(d) Through collective bargaining a higher pay scale for human services managers should be negotiated.

Job descriptions should emphasize that Managers are salaried employees who are expected to work more than 40 hours per week if necessary without additional compensation.

17(e) The Task Force endorses in principle many of the recommendations made by the Commissioner of Human Services to the Commissioner of Personnel in his June, 1980 memo and particularly reinforces the following:

- a. Child Protective, Substitute Care, and Adult Protective workers should be recognized in the same personnel classification apart from the other workers now in that classification.
- b. The social worker career ladder should include the Casework Supervisor position.
- c. A Child Protective/Substitute Care/Adult Protective entry-level or trainee-level position should be established for a worker's first year of employment.
- d. Personnel tests should be upgraded to reflect the knowledge, skills, and abilities required of all Child Welfare and Adult Protective staff.

17(f) The Task Force disagrees with the Commissioner's recommendation on education and experience and recommends that all child welfare case workers must have a bachelor's degree in social work or a related field plus closely related experience and that all child welfare supervisors must have a master's degree in social work, psychology or counseling plus related experience.

FINDING 18: While average caseloads have decreased in recent years, expectations of social workers have increased; therefore caseloads still are too high.

The Task Force found that permanency planning cannot be successfully implemented unless workers have more time to devote to each child in care than was considered necessary in the past. Two options exist: first, reducing the number of clients for whom each worker is responsible; and second, allowing workers more time to work directly with clients by reducing time devoted to routine paperwork functions.

The Department's Central Office staff estimates that the average caseload of Substitute Care workers is 31 cases. Regional personnel dispute these figures, saying that they do not reflect the large numbers of workers who may be on extended administrative leave, vacation, or sick leave at any time. In a survey of all Substitute Care workers, at least 30 were found to be carrying over 30 cases and one worker was responsible for 54 cases. Nationally-developed standards range between 20 and 30 cases per worker.

Workers also told the Task Force that simply looking at numbers of clients is misleading. Adolescents often require more time than younger children because of the time consumed in direct client counseling. To serve children in the process of returning home a worker must see the child, the foster parents, the natural parents, the counselor(s), visit the child's school, fill out papers, write an agreement, monitor the agreement, provide transportation for visits, and so forth. To serve a child whose objective is adoption, the worker must take many of the steps indicated above, and in addition, prepare a lengthy adoption summary, ensure that the legal work is completed and counsel the prospective adoptive parents. Thus, a caseload with a disproportionate number of adolescents or children in the process of returning home or being adopted is far more demanding than a caseload of children in long-term foster care and likely to remain there.

Since return home and adoption are the primary objectives of permanency planning, the Task Force

concluded that an average caseload of even 30 per worker would not produce the desired progress toward these objectives. This was confirmed by the testimony of many workers concerning their difficulty in handling their current caseloads.

The Task Force also found that workers spend a large proportion of their time filling out routine forms and doing case dictation. Thirty-five percent of workers report spending 40% or more of their week on paperwork. Use of case aides or secretaries to handle paperwork and portable dictation units, which would allow workers to dictate while traveling to and from appointments, could cut down on the amount of time workers must spend behind a desk.

RECOMMENDATIONS:

18(a) Supervisors should review each worker's caseload to make sure there is an equitable distribution among staff. Supervisors should attempt to redistribute cases so that no worker has more than 30.

Managers and Supervisors, for reasons of professional practice, should be encouraged to take one or two cases themselves.

18(b) To maximize the amount of time workers can spend in the field, supervisors and managers should review how workers' time is being spent and what modifications could be made.

For example, dictating equipment for automobile use can make travel time productive and reduce desk time for dictation. Case aides, student interns and secretaries should be used when possible for completing forms. Volunteers and case aides should be used to transport clients to appointments.

18(c) The Commissioner should annually review average caseload size and make a request to the Legislature for funding for enough workers to maintain average caseloads at 25 cases per worker.

FINDING 19: There is no uniform child welfare training program or written curriculum in Maine which describes program objectives, or specifies the knowledge and skills needed to function effectively as a caseworker.

Adequate training for social workers is vital to the delivery of high quality services to children and families. Since current Department personnel standards require workers to have little direct social work experience (see Finding 17), the Department must administer thorough on-the-job training to its workers.

Currently, the Department sponsors a series of periodic workshops for social workers, which are funded under Title XX. Most workshops are one or two days long. Practically all workers have participated in at least a few. Topics that have been offered in various parts of the state include: Working with Aggressive Hostile Adolescents; Initial Assessment of Family Problems; Counseling; Methods for Working with Children and Adolescents with Behavioral Disorders; Working with Dysfunctional Families; Confrontation Skills; and Working with Chronically Neglectful Families. Foster parents are also eligible for similar training. The Task Force believes that these workshops are beneficial. However, there are two problems: first, the workshops are not organized into a comprehensive training sequence, covering all the skills necessary to be a Substitute Care worker; second, since individual workers attend training sessions sporadically, it is difficult to integrate material learned at workshops with day-to-day practice.

In the staff survey 42% of the workers reported having participated extensively in training. But 36% said they did not have sufficient training to do their jobs properly. Twice as many social workers as clerks and managers felt that training was insufficient. When asked whether Central Office should provide more training assistance to the regions, 84% answered affirmatively.

The Commissioner of Human Services in June 1980 recommended to the Department of Personnel that Child Protective and Substitute Care staff be allowed to

spend a full year in "trainee" status. If this were implemented, trainees could spend that year learning the basic knowledge and skills needed to be an effective caseworker. This would ensure a minimum level of worker competency. However, it may be inappropriate for highly trained individuals, if any, who begin work with an M.S.W. and several years of experience.

The Department is developing a training plan for social workers as part of its federal Title IVB Child Welfare Plan. It has access to several sources of both funds and people for this purpose. This year sources include (1) Title XX training funds, (2) the Oregon Permanency Planning Project, (3) a national child abuse and neglect grant, and (4) the New England Resource Center for Child Protective Services.

The Task Force endorses the Department's effort and recommends that training include the following: orientation training, to help new workers understand the goals of the Department and their role as a social worker; program and policy training, to present program or policy changes to workers before such changes are implemented; and skill training, to help workers develop the special skills necessary to do child welfare work (e.g., crisis intervention and counseling).

RECOMMENDATIONS:

Planning responsibility

19(a) The Division of Child and Family Services, working in conjunction with the Staff Education and Training Unit, should have responsibility for ensuring that foster care training is planned and delivered regularly in locations accessible to workers.

19(b) Regional staff should be involved in planning training activities.

19(c) Training should be delivered according to a plan which reflects current standards for social work practice, and administrative priorities, such as permanency planning.

Training content should be consistent with program policy. Supervisors should encourage and expect workers to use their new skills on the job.

#### Orientation Training

19(d) Orientation training, based on a standard curriculum of program objectives, policy, skills and knowledge, should be delivered to all new Protective Services and Substitute Care workers. Whenever possible, training should be conducted jointly.

The first session of this training should be given to workers within three months of employment by the Department; they should attend additional quarterly sessions throughout their first year on the job. Orientation training could be offered quarterly on a statewide basis, and could be given by supervisors in the regions or by a trainer who visits all regions.

#### Program and Policy Training

19(e) As new policies are developed and implemented or new program objectives emphasized, training should take place with the workers responsible for carrying them out.

Implementation of any new policy should include a training plan to ensure that the policy is understood and followed.

19(f) Training should be given by program consultants either in formal sessions to both supervisors and workers or just to supervisors, who should then communicate to workers in staff meetings.

In either event, the supervisor is responsible for ensuring compliance with new policies.

#### Skill Training

19(g) All workers should be expected to participate in relevant skill training programs at least twice a year.

Examples of such programs are those provided through the Title XX Training System (e.g., crisis intervention, counseling) or those designed especially for child welfare personnel (e.g., adoption workshop).

19(h) The Task Force endorses the Department's efforts in carrying out programs identified as needed this year: casework assessment and planning; skills for taking cases to court; and supervisory training in case review/decision making.

FINDING 20: Excessive paperwork, inadequate supervision and unrealistic community expectations contribute to a sense of "burnout" among Substitute Care staff.

"Burnout" is the physical and emotional exhaustion experienced by workers and supervisors as a consequence of job-related stress. Burnout can result in negative attitudes about client and self, avoidance of clients and retreat into a shell.<sup>1</sup> "It can lead workers to adopt cynical attitudes, rigid unquestioning adherence and allegiance to established procedures and policies, loss of concern about others, and an unwillingness to be responsive to other people's distress, aspirations and needs."<sup>2</sup>

In the staff survey 45% of Maine's direct service Substitute Care staff reported feeling burned out. It is not clear what each staff member meant by the term, but a sense of frustration with their jobs appears common.

Some causes of burnout reflect the underlying difficulty and ambiguities of child welfare work. These include: (1) conflicting demands from children, natural parents, foster parents, supervisors and the public; (2) the apparent hopelessness of the circumstances of many children; (3) the crisis climate of the work day and (4) the lack of time or resources to provide all the services that foster children need.

Some causes of burnout can be corrected. Of these the Task Force found that the three most important are excessive paperwork, inadequate supervision and unrealistic community expectations.

In the staff survey Substitute Care workers mentioned a reduction in paperwork three times as often as any other change they would like to see in the foster care system. Twenty-five percent of the direct service workers estimate that paperwork currently occupies 40% of their time. Fifty percent say it takes from 0-25% of their time and 16% of the workers say it takes 50-67% of the work week.

Specific documents cited as most bothersome are the federal AFDC and EPSDT forms, the state's Worker Activity Log (SWSS-80) and the state's G16A, a purchase order form. The Department's Central Office staff is currently reviewing the Worker Activity Log and the face sheet for opening a client case, the only two forms required by the computerized information system. The Task Force believes that simplification of paperwork would have a material effect in increasing time spent with foster children.

Inadequate supervision has an adverse effect on both supervisors (who feel unable to satisfy the demands on their time) and workers (who need guidance in handling cases). The Child Welfare League of America recommends a ratio of 1 supervisor to every 5 workers. In Bangor and Lewiston the ratio is 1:6, in Portland 1:8, in Presque Isle 1:7 and in Augusta 1:6. In the staff survey 72% of the supervisors reported that the maximum number of staff any person should be expected to supervise was 5 or 6. One-third of the direct service workers reported that they did not receive adequate supervision and support from those above them. The Task Force concluded that quality casework depends upon adequate supervision and that additional supervisory positions should be created so that a minimum ratio of 1:5 can be maintained in all areas of the state.

Problems in community expectations arise from workers' perceptions that they are expected to make life beautiful for their clients, that they can cure long-standing problems of abuse or neglect. Workers believe the public does not understand the inherent complexity of child welfare work, and therefore rarely recognizes successful intervention and is quick to condemn the Department for its perceived mistakes.

A related concern is that laws and policies should not be passed or promulgated without the resources being available to implement them. Workers would be less frustrated if the state stood behind its foster care program with the funds to implement services effectively.

Of the other possible remedies for burnout the Task Force concluded that improving the quality of secretarial support and increasing vacation time for direct service workers would be of major significance. Secretaries are not now even required by the Department to take a typing test when they apply for a job.

Workers and supervisors often work overtime and are called evenings, weekends and vacations to respond to crises. The staff survey showed that 25% of the workers do not normally work overtime but that 47% work an extra 2-4 hours per week. The difficulty of escaping from child welfare work justifies additional vacation time.

RECOMMENDATIONS:

20(a) Central Office and Regional Office supervisors should acknowledge the problem of burnout. They should allow time to deal with the problem at staff meetings or contract with outside consultants to do so.

20(b) Each region should have a plan for coverage during non-working hours, vacation, and sick time to reduce workers' being telephoned at home. The Department should make provisions for stand-by pay (Form P-26) for on-call workers, when necessary to ensure adequate coverage.

20(c) The Commissioner should annually review child welfare supervisor to worker ratios and request enough funds from the Legislature to ensure a ratio of 1 supervisor for each 5 workers.

20(d) A committee of central and regional office staff should review all paperwork requirements to see where they can be streamlined.

Special attention should be focussed on the G16A purchase order form, billing procedures, the Worker Activity Log and dictation requirements.

20(e) Staff training should include instruction for workers in how to manage their time, organize their caseloads, set objectives for clients and generally gain control over the job to be done.

See Finding 19.

20(f) Secretaries should be required to pass a typing test and should be furnished with adequate equipment (typewriters, dictaphones) to fulfill job requirements.

20(g) Whenever possible, Department management staff and the community should provide workers with recognition of a job well done.

Banquets, awards, newspaper features and spotlighting workers of the month can be used.

20(h) The Office Public Affairs and Communication should take responsibility for using the media to educate the community about roles, responsibilities and realistic expectations of the Department.

20(i) The Commissioner should raise the issue of child welfare workers and supervisors receiving an additional 8 days per year of vacation time or paid administrative leave at the next state collective bargaining session.

FOOTNOTES

1. Margie Barrett, "Stresses and Strains on the Child Care Worker; Typologies for Assessment", Child Welfare, Vol. LIX, No. 5, May 1980, p. 278.

2. "Burnout and Organizational Change", Social Work, March 1980, p. 87.



STRUCTURE OF THE FOSTER CARE PROGRAM

Foster child: "Court is when two parts of the family stand in front of each other and one is the enemy."

Interviewer: "Who's the enemy here?"

Foster child: "My foster mother or my real mother, I'm not sure which."

...interview with a foster child, age 13



FINDING 21: The Department exerts total power over the day-to-day decisions concerning foster children, natural parents, and foster parents with no administrative appeal procedure available to the people affected by its decisions.

Although only the courts can transfer the custody of a child, Department of Human Services personnel make decisions daily which profoundly affect the lives of Maine citizens. Such decisions may involve:

- eligibility of a child for the Department services
- movement of foster children from one home to another
- discontinuation of visiting privileges for natural parents
- use of a particular foster home
- approval or rejection of perspective adoptive couples

Despite the awesome influence of such decisions upon children's lives, the Department has no effective or well-publicized system by which individuals can appeal its decisions.

In interviews, some natural parents expressed frustration and fear of confronting the Department; others said they felt powerless to change the dictates of a large bureaucracy. Similarly, foster parents who believed that workers had made poor decisions about their foster children testified that they did not know how effectively to appeal such decisions. Many voiced fear of retaliation: "I'm afraid that if I complain, they'll take Stevie out and move him to another home."

Whether such fears are well-founded or not, they point to the need for a public appeals process, a

procedure by which those affected by the Department's decisions can receive an impartial hearing. In testimony to the Task Force, Maine citizens called for "a pure and separate accountability process" to provide checks and balances on the Department's unilateral power in these areas.

The American Public Welfare Association states that child welfare agencies must "establish written policies and procedures to assure that all applicants for service, clients, and foster parents who believe that they have been aggrieved by the agency on one of its purchase of service providers may receive a fair and impartial hearing.<sup>1</sup>" Because of the sensitive nature of foster care cases, the Task Force believes that the Department should develop an appeals procedure which is specific to the foster care program. All parties affected by the program--children, natural parents, foster parents, adoptive parents--should be aware of this process and eligible to use it.

RECOMMENDATION:

21 The Governor should appoint a citizen's Foster Care Grievance Board to hear grievances concerning the delivery of substitute care services.

The Foster Care Grievance Board should have jurisdiction over Departmental but not judicial decisions. It should consist of 15 individuals (3 from each region) and 5 alternates (one from each region). Three Board members or alternates should hear a case. Members of this Board should include professionals and private citizens.

The Grievance Board should establish written policies and procedures concerning the conduct of grievance hearings. All Department personnel and Department clients should be informed of these procedures.

FINDING 22: Foster care policy is not clearly organized and easily accessible to Department staff, foster parents and natural parents.

Under Maine law the Department is required to develop specific policies to guide decisions about children who come into its care or custody. However, the Task Force found that policies are not logically organized. The result is unnecessary confusion about policy among Department staff, foster parents and natural parents.

In January 1965 the Department of Human Services published its "Maine Division of Child Welfare Policy Manual." The Manual described policies concerning services provided at intake, in the home, in foster care, and prior to adoption. However, it soon lost its usefulness because it was not kept up-to-date.

In the early 1970's, the Department's "Approved Policy Statement" (APS) system was designed to be an interim policy system, but it has been used ever since to promulgate and update policy. An advantage of the APS system is that it allows policy to be added or changed in response to changing needs. A new or revised policy may be needed because of changes in federal or state statutes, a gap in policy identified by Central Office or regional staff, or a desire to upgrade practice. Once the need for a new policy is identified, a Substitute Care Consultant drafts the policy and sends it to the regions for review and comment. After modification, the policy is approved by the Director of the Bureau of Resource Development, and then distributed to "all Approved Policy Statement holders."

Confusion may be created if a new policy statement overlaps or replaces policy contained in prior policy statements and/or in the 1965 Manual. In addition, there is no standard format for policy statements. Some policies include a statement of legal and/or philosophical base; some do not. Some delineate procedures, some do not. Some state who is responsible for implementing the policy; some do not. Many refer to forms; sometimes a copy of the form is included; sometimes it is not.

Regional administrators report that "fragments of policy are contained in the old Child Welfare Manual, the APS system and in numerous memos." Thus, a body of policy which is logically organized, nonduplicative, and easily located does not now exist. In the staff survey 56% said that policies and procedures are not sufficiently clear. However, Central Office staff are now working on a comprehensive child welfare manual to correct these problems.

Preparing a clear policy manual is only a partial solution. Training in implementing new policies is also essential. Regional offices report that once policies are finalized and distributed, staff do not often receive training in their implementation. One regional administrator said, "the usual procedure is that staff are given copies of the policy, told to read it and implement it. The usual practice is that the policy is filed in the bottom drawer and forgotten." Policy training is discussed more fully in Finding 19.

Other problems reported by regional staff about policy development and implementation are:

(1) policies are not reviewed periodically to see if they should be modified;

(2) regional requests for policy development are sometimes not met; for example, regional staff have been seeking an adolescent policy and a semi-independent living policy for some time;

(3) in some cases rapid policy changes have caused confusion (adoption policy, for example, has changed in recent years to adjust to frequent statutory changes);

(4) regional staff "shop around" among their superiors for a policy interpretation that will best suit their needs; and

(5) policy does not reflect priorities.

The regional staff have identified gaps in policy which have not yet been clarified by Central Office. These include:

(1) Independent living: should foster children be allowed to live independently, and if so, under what circumstances and with what type of Departmental supervision and responsibility;

(2) Transportation costs: should the Department pay transportation back to Maine for habitual runaways;

(3) Placement: what should workers do with foster children who refuse all available placements (foster homes, residential facilities)? When placing a child in the only available resource will put other children in jeopardy, what should the worker do?

(4) Custody: when a child refuses to return home because he is dissatisfied but there is no abuse or neglect, should the Department seek court-ordered custody?

Workers report that clarification of these policy questions would assist them in resolving troublesome questions.

American Public Welfare Association standards specify that not only staff but also foster parents and natural parents need program manuals adapted to their unique needs. These manuals should describe policies, rights and responsibilities. In 1979 the Department developed a "Foster Parent's Manual." Yet foster parents in the HSDI survey cited clarification of rules and policies as their second greatest need next to higher board rates. This suggests that the manual may not have been received, read or understood by many foster parents.

Natural parents do not receive any printed material on their rights and responsibilities, or those of the Department.

APWA standards further recommend that the state agency employ people with professional training in technical writing and editing to prepare such materials. Rights and responsibilities of the various parties must be presented in a manner that can be readily understood.

#### RECOMMENDATIONS:

##### Child Welfare Manual:

22(a) The Division of Child and Family Services should develop a Child Welfare Policy Manual within the next 12 months.

If the work cannot be completed by a person within the Department with professional writing capabilities, it should be done under contract with a private agency or individual.

The Manual should include (a) the agency's philosophy and goals; (b) the rights and responsibilities of staff, foster parents and natural parents; (c) the agency's policies, required procedures and forms; (d) the agency's administrative structure and decision-making procedure; (e) the agency's record-keeping requirements and forms.

Policy statements should reflect relative program priorities.

22(b) Once a year the Substitute Care Consultants and Assistant Regional Directors should review the need for new policies or revisions of old ones and develop a policy agenda for the year.

Once written in final form, a new or revised policy should be distributed with instructions for updating the Child Welfare Manual.

22(c) Regional administrators should review new or revised policy with staff to ensure their understanding and ability to comply.

Training should be provided by Central or Regional Office if necessary. (See Recommendations 19(e) and 19(f)).

22(d) Every three years the Division of Child and Family Services should review the child welfare manual to determine the relevance and viability of each policy.

#### Foster Parent's Manual:

22(e) Every three years the Department of Human Services and representatives of foster parents should review and update the Foster Parent's Manual.

The liaison person assigned by the Department to work with foster parents should be responsible for assuring consistency between the Child Welfare Manual and Foster Parent's Manual, and for updating the Foster Parent's Manual periodically.

Natural Parent's Handbook:

22(f) The Division of Child and Family Services should develop a handbook for natural parents, written in clear language, which describes policies, rights, roles, and responsibilities of the Department, foster parents, and natural parents.

FINDING 23: An effective balance between Central Office control and regional autonomy is lacking in certain areas. Regions need stronger Central Office leadership to implement permanency planning, additional legal support, and greater participation in the budgeting process.

In examining the administration of the Department's foster care program, the Task Force heard conflicting opinions concerning the right balance between regional autonomy and Central Office control. The Task Force identified two areas in which positive changes have been made recently and three areas in which problems still remain.

The first major improvement in foster care administration was the creation last year of the position of Deputy Commissioner for Social and Rehabilitation Services. The Deputy Commissioner supervises the Bureau Directors, who are responsible for program planning, policy, and funding; and the Regional Directors, who are responsible for program implementation. Until this change a disagreement between those responsible for developing foster care policy and regional staff responsible for implementing it could only be resolved by the Commissioner, whose time was limited.

The second improvement was the creation of a Division of Child and Family Services, which lodged responsibility for child welfare services in one office. There are now two Substitute Care Consultants rather than just one. This addition has made feasible a coordinated, statewide effort for permanency planning.

Despite these positive changes, the Task Force found three areas relating to central/regional roles that need improvement: leadership, legal support, and the budgetary process.

#### Central Office Leadership

To implement a permanency planning program in Maine, it is essential that Central Office provide

leadership and tangible support. Regional staff believe that the physical presence of Substitute Care Consultants in regional offices on a periodic basis, perhaps one day a month in each region, is crucial to the success of a statewide permanency effort. The consultants can provide general information and moral support, as well as technical assistance on specific case decisions.

### Legal Support

Throughout the past year the Task Force has heard innumerable complaints about the inadequacy of legal support in the regions.

Attorneys are needed in every phase of court proceedings to support the Department's case. They represent the Department in petitioning for custody, terminating parental rights and handling adoption proceedings. To be most effective, attorneys must be skilled and trained in the Department's permanency objectives.

In the staff survey 48% of all professionals said that they do not receive adequate support from Assistant Attorneys General. Managers and Regional Directors felt this the strongest with 78% saying support was inadequate.

The major problems social workers identified are:

(1) lawyers are not available for routine but necessary consultation; they do not return phone calls.

(2) Children remain in temporary foster care for excessive periods of time because the Department's attorneys often agree with parents' attorney's requests for continuances of court hearings.

(3) Inadequate representation causes the state's case to be lost, and children return home to unsafe conditions.

(4) Workers, who are often inexperienced and untrained, must prepare witnesses for court.

(5) Appeals are not taken because of the amount of time needed for preparation.

(6) Children who have returned home are not legally dismissed from custody, because reviewing dismissal summaries and taking them to court are of low priority.

Ten Attorneys General are now assigned to the entire Department of Human Services. They handle a broad array of matters ranging from health to AFDC to licensing to abortion to child welfare, in short every program in which the Department is involved.

According to the director of the Department's attorneys (whose formal title is Section Chief), seven of the ten have some responsibility for Child Protective and Substitute Care cases. Four spend about 75% of their time on these matters. In addition, the Department is in the process of adding two attorneys, one of whom will spend full-time on child welfare cases, the second half-time.

The attorneys all are physically located in Augusta, but they are assigned to regions and spend a significant portion of their time in court. Regional staff stressed that attorneys should be located in regional offices to allow frequent consultation. However, the chief attorney believes that the current attorneys cannot be located full-time in the regions because matters come up, sometimes on an emergency basis, which must be handled for the State in Augusta. Other Central Office personnel believe that supervision of attorneys, especially those with comparatively little experience, is easier if they are located in Augusta.

Since attorneys have more work than they can handle, they devise their own methods of establishing needs and setting priorities for responding to requests from social workers. Many requests do not get filled.

The Section Chief says attorneys give high priority to temporary custody hearings. First of all, such hearings must be scheduled within 10 days after the judge signs the initial order permitting removal. Second, getting a child into custody when jeopardy exists can be a life-saving matter. He believes that the full custody hearing is of much lower priority. There are many reasons. Often the parents or the parents' attorney will not fight temporary custody, but they will contest permanent custody. Sometimes the parent cannot or does not want the child back at

present, but resists being taken to court and proven an unfit parent. Therefore, the parent exhorts the Department to maintain the child in temporary custody. Explains the Department's attorney, "We already do have custody, so why press it? It doesn't make any difference to the child whether it's temporary or permanent."

The Task Force believes this is true only occasionally. If active work is continuing with the parents and returning the child home is a realistic objective in the near future, then seeking full custody may not matter. But in most cases any unnecessary delays in moving to full custody and then, if warranted, to adoption, create additional uncertainty for the child and make the goal of a permanent placement much harder to achieve.

While delays caused by attorneys and a backlog of cases in court make it difficult to get a case heard, the Department is frequently successful when it reaches court. Some estimate the Department gets custody in 80% of full custody hearings.

To provide legal support to its Department, the State of New Hampshire for four years has been contracting with private attorneys using its federal Title IVB funds. State law was amended to allow private attorneys as well as state Attorneys General to represent the Department in contested child custody proceedings. An hourly rate is established in the contract (currently \$25, soon \$35) as well as a total amount for a particular type of case (e.g., up to \$500 for a custody proceeding). Workers must get approval from Central Office before contacting the attorneys and the Attorney General has the right to review the attorney's case file, thus maintaining an oversight function. The private attorneys are evaluated yearly and are not permitted to take cases against the State while their contract is in effect. The Director of Child Welfare in New Hampshire reports that the arrangement works exceedingly well. Not only has this system provided good representation for the Department, it has also been an excellent vehicle for educating a segment of the community about the child welfare program and the needs of children.

### Budgetary Process:

Major sources of funds for the child welfare program are federal Titles XX, XIX, IVA, and IVB of the Social Security Act and state appropriations. On the Central Office level, funds for regional administrative expenses and all programs (e.g. AFDC, Child Welfare, Adult Protective Services) are lumped together in one account. The accounts specify personnel costs, travel, supplies, etc., but are not linked to specific programs (e.g., Substitute Care). Central office maintains individual regional budgets and no program budgets. Therefore, it is extremely difficult, if not impossible, to evaluate programs by analyzing dollars spent and services provided.

The Department prefers to move towards a program budgeting system, which would establish for each region a budget allocating funds to specific programs. While this approach would not change the total amount of money available, it would allow programs to be more effectively evaluated.

According to the Deputy Commissioner of Social and Rehabilitation Services, regions have virtually no input into the budgeting process and no control over expenditures. Even the number of positions available is specified by the Legislature. In preparing a budget for the Legislature the Deputy Commissioner asks each Bureau Director and Regional Director to supply a list of needs over and above current allocations. However, in recent years the needs are rarely filled. While the regions have some say over the expenditure of Title IVB child welfare funds (a very small amount of money), they have virtually no control over the budgetary process and suffer from a lack of information about this process.

### Other Problems:

One additional area that has been a source of irritation for social workers and supervisors is the potential legal liability of workers who are faced with malpractice charges or who have an automobile accident while transporting children.

The State advises each employee who transports children as part of his job to carry business liability

insurance at a minimum of \$10,000. Theoretically, a portion of the mileage reimbursement is supposed to cover the extra expense of this insurance. If the worker is involved in an automobile accident, primary liability is placed on the individual's private insurance carrier and any excess liability on the state.

The State does not carry professional malpractice liability insurance for its employees. According to the Deputy Commissioner, the State will pay for legal fees if a worker is sued for malpractice, but will not necessarily pay damages.

RECOMMENDATIONS:

Central Office Leadership:

23(a) Substitute Care Consultants should lead the Department's efforts to implement permanency planning by working directly with regional staff in every phase of implementation, spending at least one day a month in each regional office.

23(b) The Attorney General's office should communicate to all child welfare workers the State's policy on automobile liability and malpractice insurance as well as the State's role in representing workers who are involved in lawsuits as a direct result of a work-related incident.

Legal Support:

23(c) Either an Assistant Attorney General should be assigned to each Department region on a full-time basis to work on child welfare cases or the Department should explore contracting with private attorneys to provide these legal services.

In either case, the attorneys should be subject to supervision by the Department's Legal Services Section Chief. (See Recommendation 15(b)).

23(d) The Department of Human Services should attempt to obtain federal or private (foundation) funding to hire one additional attorney on a 2 to 3 year project basis who will focus exclusively on helping the regions to achieve permanency objectives for children in foster care.

Budgeting Process:

23(e) The Department of Human Services should adopt a program budgeting system which links expenditures to specific programs on regional and statewide levels.

23(f) Regional Directors should have more input into the planning/budgeting process and more autonomy in the expenditure of regional budgets based on program goals.

FINDING 24: The crucial role and importance of the Court in determining the fate of children in state custody is disproportionate to the attention a generalized District Court can give to matters of child and family law.

The District Courts play a central role in the lives of Maine's foster children. When parents do not agree to voluntary care of their child by the Department, the court must decide whether jeopardy is severe enough to justify removal. Later the court must decide whether full custody should be given to the Department. The new child welfare statute provides for a separate hearing to decide whether parental rights should be terminated. Such a decision is now a prerequisite to eventual adoption.

The Task Force heard three major criticisms of the manner in which the courts affect Maine's foster children: first, lengthy delays in scheduling court hearings extend "temporary" living situations for months or years and are detrimental to the child's best interests; second, judges may return foster children to their natural families in inappropriate instances; third, the adversary system makes cooperation between the parties difficult to achieve.

Despite these criticisms, there is a growing trend to place greater responsibility on the courts in child welfare matters. Thus, Maine's new child and family law requires a judicial review of all cases 18 months after a final protection order.

To see how judges respond to issues raised by others, HSDI conducted a survey of all Maine Probate and District Court judges. Of the 41 judges, 26 responded, a response rate of 63%. In general, the judges appeared relatively satisfied with current procedures, yet willing to experiment with new techniques and ideas.

One of the most significant findings is that many District and Probate Court judges spend only a minute proportion of their time on matters of child protection or adoption. For 65% of the judges, such cases take

less than one percent of their time. Also, 85% said they spend less than an hour reviewing a case prior to a hearing; 46% said they spend two hours or less in a hearing; yet 85% said they feel they have sufficient time to handle these cases as well as they would like. Because of their limited time, the Task Force concluded that judges cannot necessarily be expected to be knowledgeable, responsive, and sensitive to child welfare matters.

Significantly, 42% of the judges felt that formal adversary court procedures do not result in the best resolution of protective custody and adoption cases (31% said it did, 11% said both formal and informal are needed and 15% did not respond).

The Task Force heard frequent testimony about the conflict between parents' rights and the best interests of the child as well as complaints that the courts give parents the benefit of the doubt. The judges do concur, 80% of them, that the child's best interests and the desires of parents conflict either often (38%) or sometimes (42%).

The judges admit they have a strong natural family bias. When asked "generally, are you predisposed to returning more children home, freeing them for adoption, or keeping them in foster care", every judge who responded (58%) said "return more children home" (the other 42% did not answer the question). In a similar vein, when asked whether children should be returned home "even if there's a small risk of jeopardy to the child", 42% said yes.

Another question is whether judges should commit children (especially problem teenagers) to the Department's custody even if there are no suitable placements. While 17 of the 18 who answered said they review available placement options before deciding whether to commit problem teenagers to the Department's custody, 8 said they would commit even if there were no suitable placement and 9 said they would not.

Judges share the perception expressed by others that teenagers "frequently" (8% of the judges) or "sometimes" (38% of the judges) are "ordered into state custody not because they are in jeopardy but to make them eligible to receive foster care payments or

services." Nonetheless, most judges (46%) did not perceive this as a problem because the action was usually taken in the best interests of the child.

When asked if they would like to know more about such topics as family dynamics, problem resolution and counseling, 61% of the judges said yes (only 8% said no, 31% didn't respond). Further, 81% agreed that "special programs should be designed for judges and presented in Maine about these topics."

Finally, the judges were asked to respond to several ideas raised by the Task Force and others as possible reforms to try on a pilot basis in Maine.

Four ideas were suggested. None received broad-based approval from the judges, although some had substantial support. The most popular idea was "using volunteers to provide more support services" (42% yes, 35% no). The most logical use of volunteers would be to assist and follow up on case dispositions. The second most popular idea was split down the middle: "designating a special unit of the court to handle family matters" (42% yes, 42% no). The third was "using mediators to resolve case dispositions (30% yes, 50% no). The least popular was "using mediators or lay magistrates to establish jeopardy" (19% yes, 62% no).

The use of volunteers to assist courts is not unprecedented. The Probate Court in Michigan, for example, has implemented a comprehensive volunteer program. In a letter to a Task Force member, Judge Kenneth Mackness reports: "The benefits to the individual, and to those who provide such caring services, cause me to renew my enthusiasm about volunteer programs. There are so many good people who want to serve, and so many people who need these services, and the court can be the catalyst and provide coordination to get these kinds of jobs done." As in Michigan, court volunteers in Maine could be used as parent aides for children who are returning home, could transport foster children to appointments, and could act as advocates or confidantes.

There has been much discussion in Maine and nationally about the best atmosphere, the best court, the most humane circumstances in which to hear custody cases. Before examining alternatives to the present system, it is important to understand the role of the court in child welfare cases at present.

The court procedures related to the Department's obtaining custody of abused and neglected children have been recently modified. Under Maine's new child welfare statute, the Department may file a petition requesting a preliminary protection order. The Court issues the preliminary order if, from evidence presented in sworn affidavits, it appears that the child is in "immediate risk of serious harm." 22 M.R.S.A. §4034. A hearing is held within 10 days, essentially to allow the natural parents to contest the findings made in the preliminary protection order. Unless the parents consent to the preliminary protection order, the court can continue the order in effect. If persuaded that the child should return home, the judge will dissolve the order.

Before issuing a final protection order the court must hold another hearing and find, "by a preponderance of the evidence" that the child is in "circumstances of jeopardy to his health and welfare." 22 M.R.S.A. §4035. Three months after the final protection order the Department can file for termination of parental rights. At a termination hearing the Court uses the "clear and convincing evidence" standard to determine if (a) "the parent is unwilling or unable to protect the child from jeopardy; (b) the circumstances are unlikely to change in reasonable time; and (c) termination is in the best interests of the child". 22 M.R.S.A. §4055. Once all parental rights are terminated the child is legally free for adoption.

While the law is too new to evaluate, other states such as Oregon have had significant success in moving children out of long term foster care into adoptive homes as a result of statutory termination provisions.

Some people believe that designating a special unit of the court to handle family matters is a more effective means for dealing with such cases. Writing in The Family Court, Judges Foley and McMillian say that family courts are courts "of law and of judges, not a social court." Accordingly, "full legal procedural safeguards (are) assured to all parties." However, hearings are held in private, case records are protected and judges have a "wide breadth of dispositional alternatives."<sup>2</sup>

In the Creighton Law Review Alice Minier argues that:

Institution of a unified family court with broad original jurisdiction, autonomous administration, adequate auxiliary professional staff, and procedural safeguards for minors' rights (including mandatory right to counsel when the parents' and child's interests conflict) would significantly improve judicial handling of child abuse cases.

The specialized family court judge, assisted by social work investigation of the family background and psychological evaluation of the parents, would be better able to make an informed and humane disposition of the case. Follow-up investigation of the case by the court's auxiliary professional staff could be ordered to make sure the disposition serves the child's best interests.<sup>3</sup>

However, others believe that courts of law themselves cannot serve children well. David Cruickshank argues that the court's role should be limited to that of representing the "compulsory power of state intervention," and suggests a range of alternatives to court intervention. Alternatives include "the offer of services" (mandatory service provision to the family), "custody by agreement" (a version of Maine's voluntary care), "voluntary surrender of guardianship", "short-term custody", and "the child care conference."<sup>4</sup>

Focusing on the last option, Cruickshank says, "The child care conference is a voluntary means of resolving child care cases. The conference is chaired by a mediator who assists the parties in reaching a child care agreement." He suggests that parents should speak for themselves, probably without lawyers, but that "supportive friends and relatives would be invited to assist the parents in working toward the child care agreements . . . While the discussions would be held confident, mutual agreements would be recorded and would be admissible in subsequent court proceedings."<sup>5</sup>

In testimony to the Task Force it was suggested that retired judges or attorneys, working for the court on a part-time basis, could perhaps perform a similar duty. A judge who must appear only occasionally, for the sole purpose of helping in the understanding and resolution of a custody matter, has an advantage over one who must hear such cases continuously or interspersed with civil and criminal cases.

Almost everyone agrees that too many children remain in foster care for too long because of the length of time required by the courts to hear and decide child welfare cases and the difficulty of getting judges to free children for adoption. These problems lie at the heart of Maine's foster care program and only marginal improvements can be made in the lives of foster children until they are resolved. Experimentation with new approaches is therefore vital.

RECOMMENDATIONS:

24(a) The Judiciary Committee of the Legislature, through its legislative staff and with the assistance of the Chief Justice of the Maine Supreme Judicial Court, should consider the following options.

1. Investigate either designating a separate division of an existing court or creating a new court to hear matters of divorce, child protection, child custody and adoption.
2. Investigate designating a judge in each district willing to specialize in child and family matters. The judge would attend workshops and would set aside special time for hearings in a less formal non-adversary setting. Dockets would be rearranged so the designated judges spend perhaps one-quarter of their time on child and family cases.
3. Investigate alternatives to adversary court proceedings, especially the conference/mediator approach, and try them on a pilot basis in Maine.
4. Investigate using retired attorneys and judges to hear cases on a part-time basis as an arm of the court of jurisdiction. The outcomes would be certified by the court and carry the weight of the court, although procedures would be informal and nonadversarial.

24(b) The University of Maine School of Law, in conjunction with the judicial conference, should sponsor seminars on family dynamics and the role of the court for attorneys general, judges, lawyers, and social workers.

The National College of Juvenile and Family Court Judges in Reno, Nevada has a training division which may be of help in planning such seminars.

24(c) The Chief Justice of the Maine Supreme Judicial Court should encourage the judiciary to consider the use of volunteers in its continuing exploration of how better to serve the needs of people in trouble.

FINDING 25: The State of Maine needs to experiment with and evaluate a dramatically different approach to the delivery of foster care services.

Some people question whether the public sector can ever run an effective foster care system. First and foremost, the State cannot monitor itself effectively: the agency charged with delivering services is the same that must be accountable for their quality. At present, safeguards lie only in judicial control of custody decisions and an 18-month judicial case review. In many areas, the Department functions autonomously.

Second, as discussed in Finding 17, the hiring system poses a stumbling block to recruiting and keeping the best qualified people. Department staff testified that foster care is a training ground for many social workers who later find in the private sector more favorable working conditions, better-defined jobs, limited caseloads, and comparable or better pay.

Third, Maine citizens testified that a bureaucracy, no matter how well meaning its individuals, cannot provide intimate care for children. Social workers may be responsible for 35 children at once, while foster parents are told not to get too attached. The Task Force has witnessed the harm an uncaring bureaucracy can inflict upon children, natural parents, foster parents, pre-adoptive parents. Individuals have good intentions, but the system nevertheless often prevents quality care.

For these reasons, some citizens believe that the foster care program should be contracted out to a number of smaller private agencies, not restricted by state hiring practices, paperwork, unions and procedures. Such private, non-profit organizations also would be more accountable. They would either fulfill their contract with the State or no longer be permitted to provide the service. Contracts should be awarded on the basis of competitive bids where both cost and quality are considered.

Other states such as Massachusetts have experimented with contracting out foster care services. The model used there (and in some Maine private agencies) is to give primary day-to-day responsibility for all aspects of the foster child's well-being to professionally trained and supported foster parents. The social worker's role is to support the foster parent and help the natural family acquire the skills to bring the child home again.

To keep contracted foster care personal and accountable, no agency should serve more than 25 children. The agency would recruit and train foster parents, provide round-the-clock support to foster parents, provide social work services to the natural parents and assure that quality case plans were developed and implemented for the child. The Department would oversee and monitor each child's plan and have final responsibility for the decision made.

A second experimental approach is for judges to appoint a lay advocate for every child placed in state custody, either under preliminary or final protection orders. The advocate can be a relative, neighbor, friend of the family, teacher or any individual interested in the well-being of the child. If the child has no one, then the court appoints a volunteer.

Unlike social workers who leave employment or go on vacation, or foster parents who may stop being foster parents, a lay advocate is one person who follows the progress of the child, presses the Department for action if necessary, and serves as a personal confidante to the child him or herself. The advocate provides a link to the child's past and continuity to his future. An advocate who is not directly involved in the case can more easily intervene in the child's behalf without fear of retaliation.

#### RECOMMENDATIONS:

25(a) In one region on a pilot basis the Department should consider contracting with private agencies for delivering some of its foster care services and evaluate the effectiveness of this approach.

Contracted services would include recruiting, training and supporting foster parents, providing social work services to natural parents, and developing and implementing case plans, subject to Departmental review. Contracts should be limited to 25 cases.

25(b) In one region on a pilot basis the Judiciary should experiment with appointing a lay advocate (relative, friend, teacher) to each child newly entering state custody who will voluntarily monitor the child's progress, act as confidante, and assure that timely decisions are being made.

The Evaluation Unit of the Bureau of Resource Development should study Recommendations 25(a) and 25(b) to see whether these approaches have a positive impact on the case objective of the child, the length of time in care and the number of moves the child makes.

FOOTNOTES

1. American Public Welfare Association, Standards for Foster Family Services System in Public Agencies, p.9.
2. Leander Foley and Theodore McMillian, Family Law, University of Nevada, 1976.
3. Alice Minier, "Dealing With Child Abuse in a Unified Family Court", Creighton Law Review, Nebraska, Vol. 8, 1974-75.
4. David Cruickshank, "Alternatives to the Judicial Process: Court Avoidance in Child Neglect Cases," University British Columbia Law Review, Vol. 12, No. 1, 1978.
5. Ibid., p. 273.

GENERAL RECOMMENDATION

THE GOVERNOR SHOULD APPOINT AN IMPLEMENTATION COMMITTEE, COMPOSED OF MEMBERS OF THE GOVERNOR'S TASK FORCE ON FOSTER CARE FOR CHILDREN AND OTHER INTERESTED CITIZENS, TO MONITOR THE IMPLEMENTATION OF THE TASK FORCE'S RECOMMENDATIONS. THE COMMITTEE SHOULD REPORT TO THE GOVERNOR BY LABOR DAY, 1981.

Staff support for this committee should be provided through the Office of Special Projects.

## Part III



PLAN FOR LEGISLATIVE ACTION

The following recommendations, described in more detail in Part II, require either modification to existing law or legislative action through the appropriations process.

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Recommendation	Statutory Changes	Appropriation
Increase funding of the Voluntary Care program. 1(f)		X
Provide funds for services to non-state wards who require out-of-home placement. 2(d)		X
Provide food, short-term shelter and medical services to teenagers living on the streets. 3(c), 5(i)		X
Amend Subchapter VI of P.L. 1979, Chapter 733, to specify that the hearing on a final protection petition must be held within 90 days of the filing of that petition. 5(a)	X	
Develop placements in group homes for developmentally disabled and multiply handicapped children. 6(o)		X

Recommendation	Statutory Changes	Appropriation
Develop 150 new placement resources for adolescents including group homes, residential treatment and semi-independent living. 8(b)		X
Contract out foster care services for teenagers. 8(c)		X
Authorize funds for liability insurance for foster parents. 9(a)		X
Develop a certification process and training for foster parents. 9(f)		X
Increase board rates and clothing allowance for foster parents. 9(k)		X
Appropriate funds to allow Maine to receive the maximum available under Medicaid for mental health services. 11(d)		X
Implement an administrative case review system. 12(b)		X
Mandate and appoint a Foster Care Citizens' review Commission. 12(d)	X	
Amend P.L. 1979, Chapter 733, §4055 by changing the standard from "clear and convincing" evidence to "preponderance of the evidence" and by including abandonment and desertion as grounds for termination of parental rights. 15(a)	X	

Recommendation	Statutory Changes	Appropriation
Assign additional attorneys to the regions. 15(b)		X
Hire enough workers to maintain average caseloads of 25 cases per worker, 18(c), and enough supervisors to maintain an average of five workers per supervisor, 20(c).		X
Judiciary committee investigate designating a separate division of an existing court or creating a new court to hear matters of divorce, child protection, child custody and adoption. 24(a)	X	

PRIORITY RECOMMENDATIONS AND COST

The Task Force believes that the following 34 recommendations are most important in improving the lives of Maine's foster children. They are listed below along with estimated cost figures. Recommendations are listed numerically as they appear in the report, not in order of importance.

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
1(d) Review existing Title XX contracts to determine effectiveness (p. 41).	N/C	N/C	This work can be completed by the ongoing Child and Family Services Planning Committee at no additional cost to the State.
1(f) Increase funding of Voluntary Care Program (p. 41).	\$115,687	\$132,206	
2(c) Fix responsibility for the care, education and treatment of non-state wards requiring out-of-home placement (p. 45).	N/C	N/C	
2(d) Commit ample resources to provide services for non-state wards requiring out-of-home placement (p. 45).	\$1,269,151	\$1,396,066	These figures represent costs for providing out-of-home placements for 5 groups of children for whom responsibility is now unclear:

Key: N/C No substantial new cost. May require reallocation of existing funds.

\* Cost cannot be determined at this time.

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
			(a) non-state wards who currently require and receive residential treatment and special education services, (b) children who have entered DHS care or custody solely to receive residential treatment and special education, (c) children not requiring residential treatment or special education services who enter state custody to receive out-of-home placement and other services, (d) children who require residential treatment and special education but are not receiving this due to lack of resources, and (e) children who do not require residential treatment or special education but do require out-of-home placement and other services and are not receiving them due to lack of resources.

3(c) Provide ample non-custodial services for children who live on the streets: food, short-term shelter, referral to medical help and counseling (p. 51).

\$110,000

\*

This figure represents the cost of one demonstration project which would provide food, shelter, and outreach counseling for street children in one city. It also includes costs for evaluation of the project. FY 83 figure would be dependent on results of this evaluation.

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
4(a) Provide each foster child with the following services: pre-placement visits with foster family, health assessment, psychological evaluation (if necessary), written visiting plan, coordination of old and new school, visits with Substitute Care worker 2 weeks after placement and frequently thereafter, periodic visits with Substitute Care Worker alone (p. 54).	\$10,368	\$11,405	These figures show additional costs of transporting workers and children to pre-placement visits. Health assessments would be covered by the EPSDT program at little additional cost to the State; psychological evaluations would be funded by Medicaid at little additional cost. Other services would require no substantial new monies.
4(d) Assess emergency placement resource needs and provide adequate funds for emergency placements (p. 55).	\$17,050	\$18,755	
5(a) Amend 22 M.R.S.A. § 4035 to specify that the hearing on a final protection petition must be held within 90 days of the filing of that petition, unless the court, only after hearing and on a showing of good cause, decides that a continuance should be granted (p. 59).	N/C	N/C	

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
6(a) Develop criteria for selecting foster parents which stress parenting ability and allow for flexibility to meet the needs of children in care (p. 71).	N/C	N/C	
6(i) Develop innovative approaches to the placement of adolescents: single foster parents, semi-independent living, hostel programs (p. 72).	\$46,700	*	This figure represents the cost of establishment of <u>one</u> hostel program. It includes a needs assessment project to allow the need on a statewide basis to be determined. FY 83 figure would be based on the outcome of this needs assessment. Increased use of single foster parents or semi-independent living are not expected to impact Department budget dramatically.
6(o) Provide additional group home slots for developmentally disabled or multiply handicapped children (p. 73).	\$166,332	\$186,288	
6(p) Develop enough minority placement resources to assure minority children a placement which encourages positive cultural identities (p. 73).	N/C	N/C	

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
8(a) Ensure adequate educational opportunities, therapeutic services, and access to job counseling and employment for teenagers in foster care (p. 81).	\$319,800	\$351,780	These figures are based on workers' estimates that approximately 348 teenagers in care need additional education opportunities and 724 need additional therapeutic services. Educational costs are figured on a basis of a \$500 increase per child; therapeutic costs include one hour of therapy per child per week. It is assumed that access to job counseling and employment could be covered by a service agreement with the CETA program.
8(b) Develop 150 new placement resources for teenagers, including additional group home and residential treatment slots, therapeutic foster homes and single foster parents (p.81).	\$1,093,455	\$1,208,360	Based on needs expressed by workers for 75 group home slots, 15 residential treatment slots, 45 single parent foster homes, and 15 independent living slots.
9(e) Develop and implement a certification process for foster families (p.86).	\$37,243	\$153,683	First year costs cover planning and development of certification curriculum. Second year costs reflect delivery of program to foster parents and payment of a stipend of \$50/month to graduates.
9(f) Develop a foster parent training curriculum which includes orientation, ongoing training, and training in the needs of special children (p. 86).	\$10,000	N/C	SETU's FY 81 budget earmarks money for an extensive orientation program and ongoing training. This figure represents costs incurred in coordinating

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
			this training with the curriculum specified above and augmenting training when necessary.
9(k) Increase board rate and clothing allowance to cover at least 100% of the cost of care of a foster child. Develop a better method for rate-setting (p. 87).	\$829,389	\$912,328	A true figure for cost of care has not yet been established. These figures are based on a board rate of \$250/month, approximately the rate paid for adult foster care.
10(c) In cases of financial hardship, reimburse natural parents for mileage costs incurred in visiting their children in foster care outside of their own community (p. 91).	\$18,700	\$20,570	
11(f) Appropriate funds to allow Maine to receive maximal Medicaid funds for mental health services. Raise rate of Medicaid reimbursement for therapists (p. 96).	Federal Share: \$8,750 State Share: \$3,750 <hr/> \$12,500	Federal Share: \$9,625 State Share: \$4,125 <hr/> \$13,750	These figures would raise Medicaid payments to therapists by 15%, the present discrepancy between what DHS pays and what therapists receive from private patients. It assumes that the use of mental health services by foster children remains constant.
12(b) Establish an administrative case review system responsible for the semi-annual review of the cases of all children in care for 6 months or more (p. 101).	\$317,610	\$349,570	Includes consultant and clerical time for an estimated 7,200 reviews per year.

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
12(d) Establish a Foster Care Citizens Review Commission (p. 101).	\$55,739	\$57,603	Includes cost of a full-time staff person and secretary as well as training for reviewers and mileage costs for trainers and commission members.
14(a) Develop a standard for "minimum sufficient level of care" necessary to return children home (P. 111).	N/C	N/C	
15(a) Amend 22 M.R.S.A. § 4055 to require "preponderance of the evidence" rather than "clear and convincing evidence" as the standard for termination of parental rights. Include abandonment and desertion as grounds for termination (p. 121).	N/C	N/C	
15(b) Assign an Assistant Attorney General to each region to work on adoption and other child welfare cases or contract with private attorneys to provide these legal services (p. 122).	\$62,419	\$68,661	This figure is based on the hiring of 2 new full-time attorneys and 1 clerk-typist. It is assumed that 3 attorneys could be assigned from existing Department staff.
17(b) Allow qualified candidates, both from within and outside of the Department, to be certified for child welfare positions on an equal basis (p. 134).	N/C	N/C	

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
17(f) Raise qualifications for child welfare case workers and supervisors (p. 135).	N/C	N/C	It is assumed that existing personnel would retain their positions under a "grandfather clause." Therefore, no costs are included for additional education of DHS' staff.
18(c) Review caseload size annually and request funding for enough workers to maintain caseloads at 25 cases/worker (p. 137).	\$509,020	\$559,922	At current caseload sizes this would require 31 more Human Services Worker II positions.
19(c) Deliver training of workers according to a plan which reflects current standards for good social work practice and administrative priorities (p. 139).	N/C	N/C	
20(c) Review supervisor to worker ratios annually and request funding to ensure a ratio of 1 supervisor to 5 workers (p. 144).	\$286,672	\$315,339	At current staffing, this would require 16 more Human Service Manager I positions.
21(a) Establish a Foster Care Grievance Board (p. 149).	\$16,121	\$14,200	This figure includes a staff person at 10% time, a secretary at 20% time, as well as training for members and mileage costs for members and trainers.

Priority Recommendation	Cost		Explanation
	FY 82	FY 83	
22(f) Develop a hand-book for natural parents (p. 154).	\$7,500	N/C	This figure includes a full-time staff person for 3 months, a secretary at 10% time for the same period as well as cost for printing and binding.
23(c) See 15(b).	- -	- -	
24(a) Consider alternatives to the current court system, including establishment of a separate division of the court to hear matters of child and family law, use of specialized judges to hear such matters, use of non-adversarial court proceedings, use of retired attorneys and judges to hear child welfare cases on a part-time basis (p. 167).	N/C	N/C	
General Recommendation Appoint an Implementation Committee to monitor the implementation of the Task Force's recommendations (p. 173).	\$40,335	- -	Costs here include a full-time staff person a quarter-time secretary plus travel, meals and lodging costs for 12 participants at monthly meetings.

# Appendix





OFFICE OF  
THE GOVERNOR

NO. 6FY 79/80  
DATE October 2, 1979

AN ORDER ESTABLISHING THE GOVERNOR'S TASK FORCE ON FOSTER CARE FOR CHILDREN

WHEREAS, there are 1,800 Maine children living in foster care for an average of seven years in an average of seven homes; and

WHEREAS, the State has failed or been unable to provide these children with permanent homes, either by returning them to their natural parents, by finding adoptive parents, or by making formal long term foster care agreements with stable foster families; and

WHEREAS, every child in foster care in Maine deserves to live as part of a stable, permanent family:

NOW, THEREFORE, I, JOSEPH E. BRENNAN, Governor of the State of Maine, establish the Governor's Task Force on Foster Care for Children to examine Maine's system of foster care services and to make recommendations for improving this system.

MEMBERSHIP

There shall be twenty-five voting members on the full Task Force. Eighteen of these members shall be state legislators, judges, private sector providers and other members of the public appointed by the Governor. Seven of these members shall be state employees invited to participate by the Commissioner of Human Services.

The Governor may invite other interested Maine citizens to serve as non-voting members on the subcommittees of the full Task Force.

The Commissioner may invite other appropriate state and federal officials to participate on the Task Force or any of its subcommittees as non-voting members.

RESPONSIBILITIES

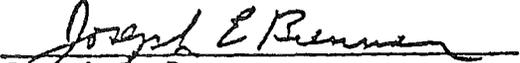
The responsibilities of the Task Force shall be:

1. to conduct a comprehensive review of the system of foster care services in Maine, using standards developed by the American Public Welfare Association and other professional organizations knowledgeable about foster care;
2. to carry out a survey of foster homes and the children currently residing in them in order to determine whether the children can be returned to their natural parents, be made available for adoption, or should remain in a long term foster family setting;

3. to focus special attention on the needs of older, "acting out" adolescents in all types of substitute care settings;
4. to develop a plan for increasing the number of adoptions in the State;
5. to make recommendations to the Governor for improving foster care services, including a plan for administration action and a plan for action by the 110th Maine State Legislature;
6. to take into account information gathered during public hearings in the development of the recommendations; and
7. to build public awareness of the problems and issues involved in the area of foster care services.

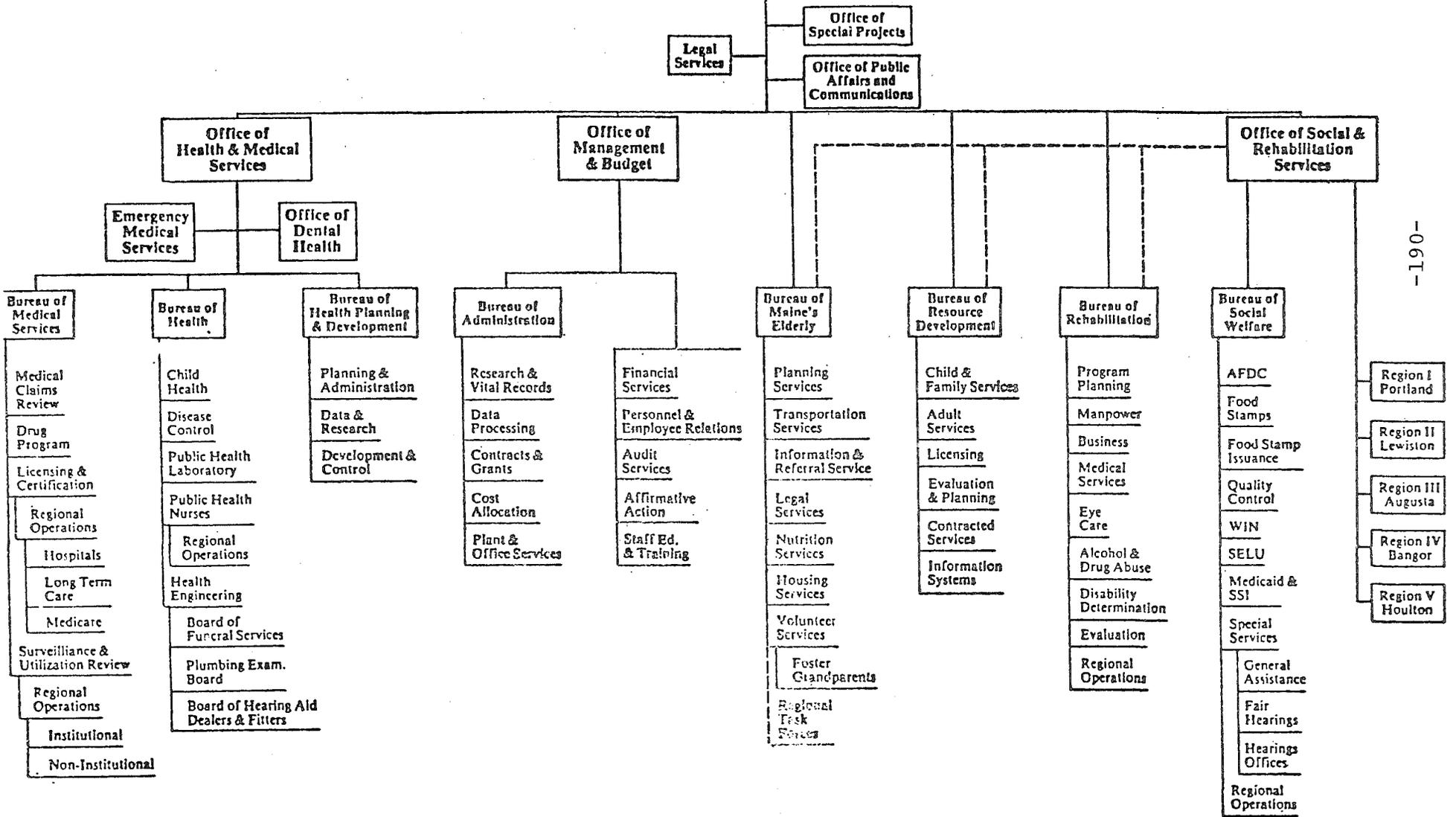
#### ADMINISTRATION

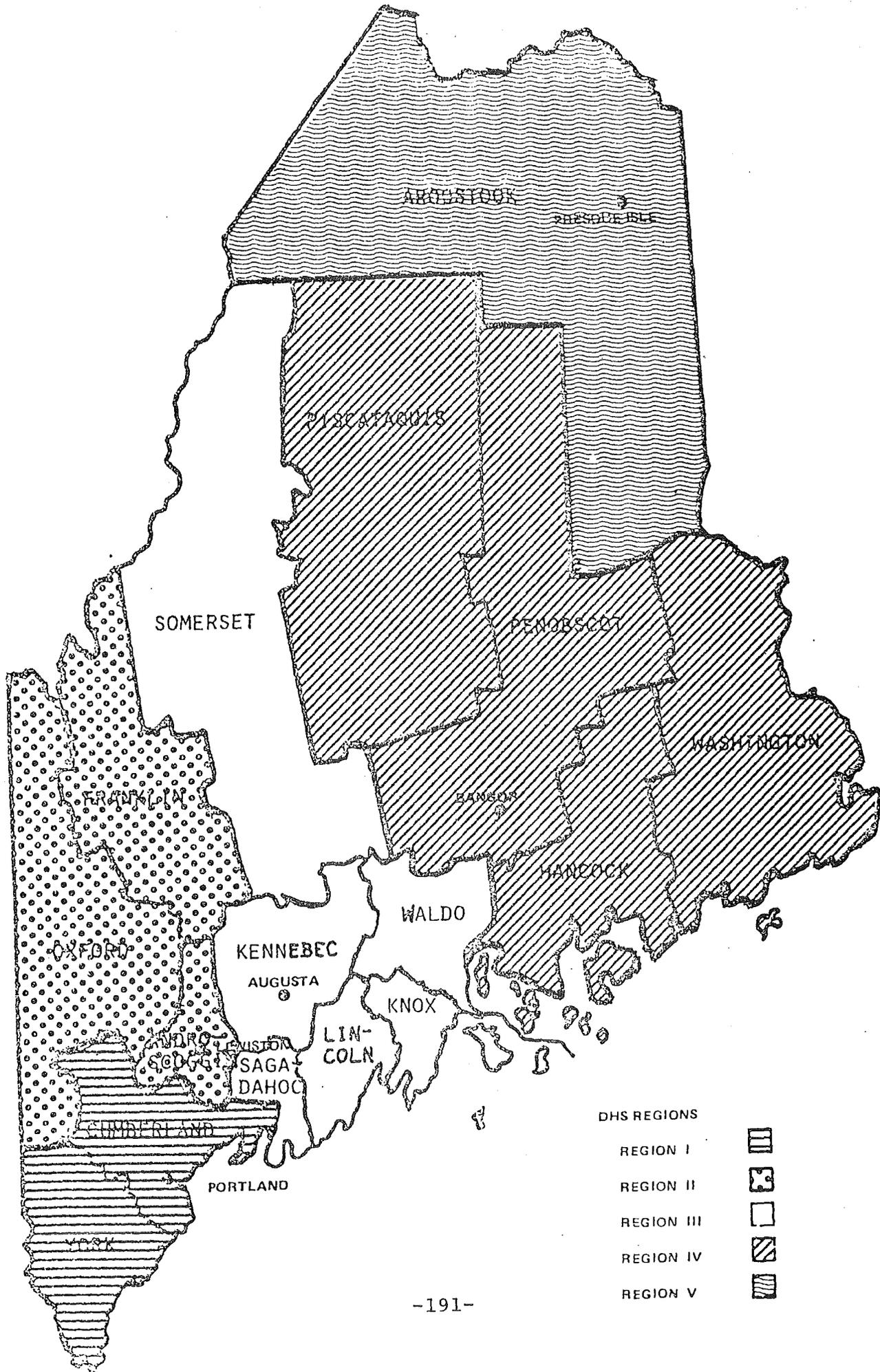
1. The Department of Human Services shall provide clerical and staff support services for the Task Force, making use of any federal funds which become available for this purpose.
2. The Department of Human Services shall reimburse members of the Task Force for actual and reasonable mileage, lodging and meal expenses directly related to the activities of the Task Force.
3. The Final Report and recommendations shall be submitted by the Task Force on or before Labor Day, 1980.
4. This Executive Order shall terminate with the submission of the Final Report and recommendations.

  
Joseph E. Brennan  
Governor

**Maine Department of Human Services  
Organizational Chart  
November, 1979**

**COMMISSIONER**





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