

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**OVERSIGHT OF STATE CHILD WELFARE  
PROGRAMS**



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# EXECUTIVE SUMMARY

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## PURPOSE

To assess and to find ways to improve oversight of State child welfare programs.

## BACKGROUND

In 1980, Congress passed The Adoption Assistance and Child Welfare Act (P.L. 96-272) in order to "lessen the emphasis on foster care placements and to encourage greater efforts to find permanent homes for children." The law signaled a new direction in child welfare and highlighted an awakened Federal interest in how States manage their child welfare programs.

The Department of Health and Human Services (HHS) funds State child welfare services through three significant mechanisms, all of which are under the Social Security Act. The largest proportion of monies comes from Title IV-E, with lesser amounts from Title XX and Title IV-B (see appendix A for details on the programs). The HHS's Administration for Children and Families (ACF) oversees State child welfare services using the following formal mechanisms: Title IV-E reviews, Section 427 reviews, program reviews, and State plans (see appendix B for details on oversight mechanisms). The content of both Title IV-E and Section 427 reviews is determined by P.L. 96-272.

Members of Congress, HHS officials, the General Accounting Office, directors of State child welfare agencies, and representatives of the Child Welfare League of America and the American Public Welfare Association are among those who have voiced concerns about these processes. In particular, they have been concerned that the reviews elevate process issues over quality of services.

On August 10, 1993, the President signed into law the Omnibus Budget Reconciliation Act of 1993. This law increased funding for Title IV-B to encourage State efforts to support and preserve families. The original version of the bill proposed major alterations to the oversight process. While the law, as passed, left most of the oversight processes unchanged, the fact that Congress considered reshaping these requirements indicates a high level of interest and concern about oversight issues.

Given this level of interest and activity, changes to the oversight system are likely. This report presents information which we hope will be helpful to decision makers as they consider improvements to oversight of child welfare programs. In this report, we evaluate the scope of and approach to Federal oversight activities (which includes the statutorily mandated features of oversight), as well as the conduct of these activities.

This report is focused on a range of Federal oversight activities, including technical assistance, planning, and review of programs. The focus is primarily on ACF oversight

activities, although HHS leadership and Congress have significant roles in determining these activities. Audits and reviews conducted by agencies other than ACF, such as the Office of Audit Services in the OIG or the General Accounting Office (GAO), were not within the scope of this study. Furthermore, we did not reevaluate specific findings or disallowances from any reviews of State child welfare programs. We intend this report to establish the context and provide general perspective for officials to make improvements in the oversight system. Our Office of Audit Services has issued a draft report which focuses on specific improvements in the eligibility process.

Finally, because ACF itself has expressed concerns about the oversight processes and has initiated several examinations of them, we are certain ACF is familiar with many of the shortcomings we identify in this report. Our focus is not primarily on assessing how good a job ACF is doing in conducting oversight, but on assisting ACF in its deliberations on improving the processes.

We collected data from three primary sources. First, we reviewed the results of the most recent Section 427 reviews, Title IV-E reviews, and program reviews conducted in each State in the last five years. Second, we interviewed State child welfare officials in 13 States. Finally, we interviewed officials in each of the 10 ACF regional offices and had numerous discussions with officials in the central office of ACF.

## ACCOMPLISHMENTS

*Federal oversight of State child welfare programs has served some important purposes, particularly in establishing new directions for child welfare in the early 1980s.*

Since the early 1980s, Federal oversight of State child welfare programs has been focused on assuring States' adherence to P.L. 96-272. Several State and Federal officials we interviewed spoke about the positive new directions in State programs resulting from P.L. 96-272 and Federal reviews focused on the law. In addition, oversight has helped prevent States from illegally receiving Federal funds for ineligible activities or on behalf of ineligible families. There is little question that the oversight mechanisms in use since the early 1980s have served important purposes.

## SHORTCOMINGS

Despite the accomplishments stated above, there are indications that the oversight mechanisms and framework make it difficult for the Federal government to provide adequate stewardship of Federal funds or leadership to States for the 1990s and beyond. Evidence of these indications follows. There are shortcomings both in the overall approach to oversight as well as in the individual processes. Many of the shortcomings stem directly from the requirements set out by Federal statute, while others are matters of administrative discretion not strictly determined by statute.

*The overall approach to Federal oversight has not addressed many of the vital issues States face in administering child welfare programs.*

- Federal oversight has not recently prompted States to improve and address new and complex problems in child welfare.
- Federal oversight reviews have not identified severe problems with several States' child welfare programs that were specified in successful lawsuits against the States.
- Section 427 and Title IV-E reviews have been focused on the written record of case work, not on how well children are served.
- Disallowances have often been based on issues that child welfare agencies do not control.
- The ACF has provided limited technical assistance to States; State officials say that ACF does not provide them with new information when it identifies program strengths and weaknesses and solutions to problems.

*Problems with the conduct of Federal review and planning activities have hampered their efficiency and effectiveness.*

- Federal review activities have been resource intensive for State agencies and ACF regional offices.
- Review reports have not been issued to States in a timely manner. This has diminished their capacity to improve child welfare programs.
- States expressed confusion about the Federal review procedures resulting from poor communication by Federal officials.
- There has been inadequate Federal/State interaction on child welfare oversight issues.
- Officials from ACF and States question whether Federal review and planning mechanisms have been adequately meeting their stated objectives.

## **RECOMMENDATIONS**

Oversight of State child welfare programs continues to be of intense interest to the Congress, HHS, the States, and others. The ACF, itself, is engaged in efforts to improve its oversight. We hope this report can provide information to help guide decisions on the course of oversight. It is important for ACF to pursue two principles in its oversight of State child welfare programs. The ACF must continue to assure the integrity of States' use of Federal funds. It is equally necessary for ACF to work in

partnership with States to make programs work well. Our recommendations are focused at helping ACF and the States pursue both these principles.

We present a wide range of options for each recommendation. Some options are not consistent with others, while other options fit together very well. Our goal is to provide as many practical ideas as possible.

In many cases, the current oversight approaches and processes are set by Federal statute. Some of the options we present, if implemented, may therefore require legislative changes (these are denoted by a  $\delta$ ). Other options could be enacted at the discretion of ACF without Congressional approval.

*In order to improve its oversight of State child welfare programs, the ACF should:*

**Provide States with more and better feedback on issues related to program performance.**

Implementation options

- Performance Indicators Develop performance indicators, collect State-by-State information on them, and disseminate this information to all States on a periodic basis.
- Outcome-Based Reviews <sup>$\delta$</sup>  Replace existing review mechanisms with new review processes that relate resources to outcomes.

**Find new ways to work with States to make program improvements and address problems.**

Implementation options

- Corrective Action Plans <sup>$\delta$</sup>  Rather than automatically sanctioning States financially in response to adverse review findings, use, when appropriate (i.e., at the discretion of the Secretary), the results of reviews to develop corrective action plans, with agreed-upon time frames, to improve programs and enforce legal requirements. Waive or reduce disallowances, when appropriate (at the discretion of the Secretary), if States comply with plans and time frames.
- Accreditation <sup>$\delta$</sup>  Using new or existing accreditation bodies, make accreditation of programs a Title IV-B State plan requirement. Oversee the accreditation bodies to assure that they are fair, reasonable, and pursuing continuous improvement.

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<sup>$\delta$</sup> May require new legislation.

- Quality Assurance Require States to have quality assurance programs that look at the quality of case work.

**Improve current planning and review processes to make them more effective.**

Implementation options

- Title IV-B Planning Emphasis Put less emphasis on compliance reviews (such as the Section 427 reviews) to assure protections are in place in States and, instead, use a revitalized joint planning process to provide strategic direction that will lead States to effective child welfare programs.
- Substantive Title IV-E Reviews<sup>δ</sup> Use the Title IV-E review process to assure States are substantially complying with foster care case planning and review and judicial determination requirements. Limit disallowances to instances of substantial non-compliance.
- Section 427 Incentives<sup>δ</sup> Alter the Section 427 review process to provide better incentives for improvement. Rather than using full compliance with process requirements as the standard for 427 funding, score States based on quality of case planning and reviews once they have passed a triennial review and make the size of the grants in the coming three years dependent on the scores.
- Focus Program Reviews Change the approach of program reviews to use them only when indicators of problems are raised through other reporting or review mechanisms. Develop strategies to address those problems only.
- One State Plan<sup>δ</sup> Require States to submit one coordinated State plan for all child welfare services.

**Make more efficient use of resources required to conduct reviews.**

Implementation options

- Title IV-E Reviews - Automation Automate the Title IV-E review process.
- Title IV-E Reviews - Self-Certification<sup>δ</sup> Allow States to certify that their payments are eligible under Title IV-E.
- Title IV-E Reviews - Limited Scope<sup>δ</sup> Limit the Title IV-E reviews to income eligibility and payment allowability issues.

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<sup>δ</sup>May require new legislation.

- Section 427 Reviews<sup>δ</sup> Discontinue Section 427 reviews or sharply reduce the use of them.
- Discontinue Planning and Program Reviews<sup>δ</sup> Use other technical assistance efforts instead of Title IV-B joint planning and program reviews.
- Limit Background Sections Shorten introductions to reports, which often focus on information about which the States are aware.

**Provide States with more useful, comprehensive, and expert advice on management, program, and technical issues.**

Implementation options

- Existing Mechanisms Focus more resources on joint planning, program reviews, and the training of regional officials to conduct technical assistance.
- Non-governmental Contracts Use funds to contract with non-governmental organizations to provide general technical assistance to States.
- Problem Areas Using a combination of ACF officials and outside contractors, provide intensive technical assistance to States or regions of States that have extreme problems.

**More effectively share information with and among States.**

Implementation options

- Effective Practices Using oversight mechanisms, identify effective practices. Produce regular (at least semi-annual) reports that outline these practices and list contacts in the States. Actively share reports and State plans that outline effective practices.
- On-Line Service Develop a simple, electronic, on-line service for States to share information about strategies, innovations, and other issues.

**Improve and clarify communication with States about program standards.**

Implementation options

- Reasonable Efforts Collect information on States' definitions of "reasonable efforts" and identify model definitions.

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<sup>δ</sup>May require new legislation.

- Central Office Hotline Establish a central office hotline to respond promptly to regional office and State inquiries about review policy, standards, and interpretation of regulations and statements. Follow up inquiries with written confirmations that are shared with all States and regional offices.
- Program Regulations Publish comprehensive program regulations for Section 427 and Title IV-E that would be subject to notice and comment.

**Improve the timeliness of reporting on results of reviews.**

Implementation options

- Mandatory Turnaround Require reports to be issued within a set time after a review is complete.
- Performance Reporting Develop goals for turnaround of reports. Then collect and disseminate information on the timeliness of reporting.
- Streamline Decision-making Clarify who in ACF has the authority to decide on policy matters and final reports.
- Limit Scope of Reviews<sup>6</sup> Reduce the complexity of the reports by narrowing the scope of the reviews.

## COMMENTS ON OUR DRAFT REPORT

We shared our draft report with and solicited comments from the Administration for Children and Families (ACF), the Assistant Secretary for Planning and Evaluation (ASPE), the Assistant Secretary for Management and Budget (ASMB), and the Assistant Secretary for Legislation. We received written comments from ACF and ASPE. We reproduce these comments and provide detailed responses to each in appendix C.

We are pleased that both ACF and ASPE concurred with our recommendations and found the report useful. We made changes in our report based on the technical comments we received.

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<sup>6</sup>May require new legislation.



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# INTRODUCTION

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## PURPOSE

To assess and to find ways to improve oversight of State child welfare programs.

## BACKGROUND

In 1980, Congress passed The Adoption Assistance and Child Welfare Act (P.L. 96-272) in order to "lessen the emphasis on foster care placements and to encourage greater efforts to find permanent homes for children."<sup>1</sup> The law signaled a new direction in child welfare and highlighted an awakened Federal interest in how States manage their child welfare programs. Among other things, the law increased funding for a variety of State child welfare services and separated funding for foster care and adoption assistance payments from Title IV-A of the Social Security Act (Aid to Families with Dependent Children, or AFDC). It also refocused Federal oversight of child welfare by requiring that certain child protections be in place for States to be eligible for Federal funds for foster care and other child welfare services. One major change was a greater emphasis on the enforcement of legal requirements to ensure the eligibility of children in the foster care system. For example, State court judges were required to include certain findings about the appropriateness of the foster care placement before a child could be considered eligible for Federal matching payments.

### *Funding*

The Federal government funds State child welfare services through three significant mechanisms, all of which are under the Social Security Act.<sup>2</sup> The largest proportion of monies comes from Title IV-E, with lesser amounts from Title XX and Title IV-B (see appendix A for more details). A majority of Federal funding goes for foster care maintenance payments and administrative and training expenses associated with foster care under Title IV-E.<sup>3</sup> Costs for administration and training are a huge and growing proportion of Federal child welfare funding.<sup>4</sup>

### Title IV-E

Title IV-E funding is limited to foster care, adoption assistance, independent living, and administration and training associated with those programs; only children whose families are eligible for AFDC are eligible for Title IV-E foster care and adoption assistance funding. Title IV-E is an open-ended entitlement program.<sup>5</sup> In fiscal year 1993, it is estimated that \$2.9 billion was spent on Title IV-E programs.

## Title XX

Title XX-funded social services block grants may be used for a variety of child welfare services. In total, Title XX social service block grants were funded for \$2.8 billion in 1993. The money may be used to help States meet five social services objectives; only one is directly related to child welfare services. According to a 1986 survey conducted by the American Public Welfare Association, States spent 27.5 percent of Title XX funding on child welfare services.

## Title IV-B

Title IV-B Subpart 1 is a capped entitlement program that can be used for a wide variety of child welfare services; children and families who benefit from the services do not have to meet any income eligibility criteria. Substantial supplemental Title IV-B funding is available to States under Section 427.<sup>6</sup> The Section 427 funding was set up to provide incentives to States to establish and maintain certain protections for children in the States' care. The Title IV-B appropriation for fiscal year 1993 was \$295 million. The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) created Subpart 2 under Title IV-B. This new capped entitlement is for family preservation and family support services. Congress authorized \$60 million in Subpart 2 funding for fiscal year 1995 and \$930 million over five years. Section 427 is not applicable to Subpart 2 funding.

### *Oversight Mechanisms*

The Federal government, through the Department's Administration for Children and Families (ACF), oversees State child welfare services using the following formal mechanisms: Title IV-E reviews, Section 427 reviews, program reviews, and State plans (see appendix B for details on oversight mechanisms). In addition, ACF acts as a resource for States on a variety of fiscal, administrative, and programmatic issues. The ACF has not conducted reviews of Title XX block grants, although it has the authority to do so.

## Title IV-E Reviews

Title IV-E reviews are intended to assure that States spend Title IV-E money appropriately. They are usually conducted by a team of both fiscal and programmatic staff from the ACF regional office and, when possible, from ACF headquarters.<sup>7</sup> The ACF conducts reviews of Title IV-E foster care maintenance payments, adoption assistance payments, and, occasionally, administrative and training expenses.

The foster care and adoption assistance reviews determine, through record reviews, whether the child's family is financially eligible, whether there is documentation indicating adequate review by courts and case workers, whether foster homes are licensed, and whether individual payments are allowable.

The administrative and training reviews focus on whether systems for claiming and apportioning costs are accurate. Included in these reviews are checks on systems for internal control in the areas of rate setting and of payment and edit check procedures, and examination of the accuracy of methods used for assigning administrative and training costs to Title IV-E.

Standards for Title IV-E reviews are based on specific statutory requirements.

### Section 427 Reviews

The main objective of Section 427 reviews is to ensure that States have the necessary systems and policies in place to be eligible for incentive funds. Among the required protections are that States must take steps to prevent the need for removal of a child from his/her home, they must develop a case plan and review system for each child, and they must set goals for all children in foster care. States must also have implemented a Statewide information system on children in foster care.

Federal oversight of Section 427 is a two-stage process: (1) an administrative review that is done the year after a State claims to be eligible for 427 funds, and (2) a survey of case records which is done periodically after the administrative review has been passed.<sup>8</sup> The Administrative Procedures Review determines whether States have developed systems to assure protections for children in foster care. The Case Record Survey confirms that the Section 427 protections are in place in a certain percentage of children's records in the State review files. If a State is found out of compliance, ACF issues a disallowance against the State's allotment of Title IV-B funds for the following fiscal year and incentive funds are no longer granted.<sup>9</sup>

Standards for Section 427 reviews are based on specific statutory requirements.

### Program Reviews

Prior to 1980, qualitative program reviews were the primary mechanism for Federal oversight of States' child welfare systems. With the move toward fiscal and compliance-based reviews as a result of P.L. 96-272, the Federal government suspended program reviews in 1983. Program reviews were reinstated in 1990 when ACF identified the need for States to have their child welfare programs assessed in a systematic way and to receive more technical assistance.<sup>10</sup>

The ACF designed program reviews to improve services to children and their families by periodically assessing State and local programs. States participate voluntarily. Teams of State agency staff, Federal regional office reviewers, and a Children's Bureau specialist conduct on-site interviews and review case records with State agency officials, program beneficiaries, and staff of local agencies.

The objectives of a program review are (1) to provide a systematic method of assessing the effectiveness and efficiency of child welfare programs at the State and

local levels of service delivery; (2) to provide a basis for assisting States and local sites to identify areas in which program improvement is needed; and (3) to provide a flow of management information between the States, local sites, and the Children's Bureau.<sup>11</sup> Program reviews identify exemplary programs as well as program weaknesses and recommend specific plans for improvement. There are no penalties attached to the reviews, nor are States required to implement the recommendations.

### State Plan Processes

P.L. 96-272 also requires ACF to confer with States about their child welfare programs through the State plan process. States must have specific plans for the provision of child welfare services in order to be eligible for payments under Titles IV-B and IV-E.<sup>12</sup> There are separate planning processes for Titles IV-B and IV-E.

State and HHS staff jointly develop the Title IV-B State plan; the plan describes States' child welfare services and the steps they plan to take to expand and strengthen existing programs. These plans must be submitted at least once every three years. The Title IV-E foster care and adoption assistance programs are included in States' Title IV-B plans, but these programs apply only to children eligible for AFDC.<sup>13</sup>

There is a separate Title IV-E State plan which is developed by the State, and submitted to the Secretary for approval. It is based on a set of questions developed by HHS requiring information from the States about specific goals as to the maximum number of children in care for more than two years, a description of steps to meet these goals, and a case plan review system.

### *The Omnibus Budget Reconciliation Act of 1993 (OBRA 93)*

On August 10, 1993, the President signed into law OBRA 93. This law increased funding for Title IV-B to encourage State efforts to support and preserve families (known as Title IV-B Subpart 2). The original version of the bill proposed major alterations to the oversight process.<sup>14</sup> The law, as passed, left most of the oversight processes unchanged. The OBRA 93 has an impact on oversight in three areas. First, additional Title IV-B Subpart 2 funding (\$2 million in fiscal year 1994 and \$6 million thereafter) has been authorized for ACF to use for evaluation, research, training, and technical assistance; next, Title IV-B State plan requirements were changed to reflect Subpart 2; and finally, the Federal government was barred from issuing disallowances as a result of Section 427 and Title IV-E reviews until October 1, 1994.

### *Basis for and Scope of Our Study*

Members of Congress, HHS officials, the General Accounting Office, directors of State child welfare agencies, and representatives from the Child Welfare League of America and the American Public Welfare Association are among those who have voiced concerns about the Federal oversight processes.<sup>15</sup> At hearings conducted in 1991 by the House Committee on Ways and Means, witnesses testified at length about

the problems with Federal oversight; in particular, they were concerned that the reviews elevate process issues over quality of services.<sup>16</sup>

Critics believe that, in several ways, the oversight processes do not support the intent of P.L. 96-272. In addition to the OBRA 93 moratorium, Congress twice acted to suspend penalties levied against States that have been found out of compliance during 427 reviews.<sup>17</sup> The ACF has convened several task forces and engaged in high-level deliberations about how to improve the review processes.<sup>18</sup> As part of their efforts to improve oversight, ACF officials requested that we provide them with an assessment of oversight activities and develop a range of proposals to address problems we identified.

Given the level of interest expressed by Congress, the States, the Administration, and child welfare advocates in child welfare and Federal oversight of State programs, changes to the oversight system are likely. This report presents information which we hope will be helpful to decision makers as they consider improvements to the oversight of child welfare programs. In this report, we evaluate the scope of and approach to Federal oversight activities (which includes the statutorily mandated features of oversight), as well as the conduct of these activities.

This report is primarily focused on the review and planning mechanisms used by ACF to oversee State child welfare programs. In our interviews with State and ACF officials we also discussed the other less formal mechanisms that ACF uses to oversee States such as technical assistance efforts. The report therefore often uses the term "oversight activities" in a general way. This report is not focused on reevaluating specific findings or disallowances from any reviews of State child welfare programs. We assume, and have no reason to believe otherwise, that all disallowances taken as a result of reviews were based on direct application of Federal statute.

In addition, although our primary focus is on ACF oversight activities, we feel it is simpler and more appropriate to speak about "Federal" oversight activities. The ACF is not alone in responsibility for administering and designing oversight activities. The HHS and Congress have significant roles in this process. As noted throughout the report, many aspects of the oversight processes are defined by Federal statute. However, our use of the term "Federal oversight" is not intended to include reviews and audits of State child welfare programs outside of ACF's purview--for example, reviews and audits conducted by the OIG Office of Audit Services or the General Accounting Office.

While many observers of and participants in the oversight processes have raised issues similar to those raised in this report, this report is meant to serve several unique purposes. First, we provide detailed analysis of the oversight process, using multiple sources of information. The methods we used allow us to make well-balanced and conclusive statements about the approaches and performance of oversight. Second, as mentioned above, we assessed the entire system of Federal oversight including technical assistance activities, planning activities, and review activities. Finally, our

central objective is to find ways to improve oversight. We do not prescribe a specific course of action, but instead identify key areas in which improvement is necessary. We then present a range of implementation options in each area. The report is, therefore, meant to be a single, comprehensive document that will hopefully establish the context and provide general perspective for officials to make improvements in the oversight system. Our Office of Audit Services has issued a draft report which focuses on specific improvements in the eligibility process.<sup>19</sup>

### *Methodology*

We collected data from three primary sources. First, we conducted document reviews. We reviewed all available reports from Section 427 reviews, Title IV-E reviews, and program reviews conducted in each State in the last five years. We gathered and analyzed reports, journal articles, legislative and regulatory proposals, and information from court proceedings. Second, we interviewed State child welfare officials. We conducted interviews on-site in 3 States and over the telephone in 10 States--one in each HHS region. Finally, we interviewed officials in each of the 10 ACF regional offices over the telephone and held numerous discussions with officials in the central office of ACF. (See appendix D for a complete description of the primary data collection methods and sample selection criteria.)

In our presentation, we blended information from these three sources. We supplemented the opinions and conclusions of State and ACF officials with evidence from review reports, literature, laws, regulations, and court proceedings. Whenever possible, to account for potential biases, we balanced interview data from State officials with interview data from ACF officials. We did not evaluate the accuracy of statements made in interviews about the accomplishments and shortcomings of Federal oversight except by using the above-noted sources. Nonetheless, because State officials frequently agreed with ACF officials and the evidence from reports and other sources support the interview information, we are confident of the validity of our conclusions.

We conducted this inspection in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

## ACCOMPLISHMENTS

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*Federal oversight of State child welfare programs has served some important purposes, particularly in establishing new directions for child welfare in the early 1980s.*

Since the early 1980s, Federal oversight of State child welfare programs has been focused on assuring States' adherence to P.L. 96-272. Several State and Federal officials we interviewed spoke about the positive new directions in State programs resulting from P.L. 96-272 and Federal reviews focused on the law. States were prompted to develop written case plans and conduct periodic judicial and administrative reviews of children's cases; these were procedural breakthroughs in many States. The requirement to make reasonable efforts to prevent family breakups and reunify separated families was a significant shift in objectives on the part of the Federal government. State officials we spoke with said that oversight led them to create new laws parallel to Federal laws, clean up existing laws, and formalize existing procedures. Officials from ACF cited more effective coordination between agencies and State judiciaries, and better family-centered services resulting from the law and the oversight process, and mentioned that children are less likely to get lost in the foster care system.

In addition, oversight has helped prevent States from illegally receiving Federal funds for ineligible activities or on behalf of ineligible families. For example, in one State, ACF recovered over \$200,000 in Federal funds because payments were made to ineligible or unlicensed providers. In another State, ACF recovered over \$190,000 spent by the State for children from families without financial need. The fact that ACF verifies through a review process that funds are spent legally undoubtedly deters States from making ineligible claims. While it is impossible to measure this effect, it is nonetheless important.

There is, therefore, little question that the oversight mechanisms in use since the early 1980s have served important purposes. There are indications, however, that the oversight mechanisms and framework do not allow the Federal government to provide adequate stewardship of Federal funds or leadership to States for the 1990s and beyond. Evidence of these indications follows. Many of the shortcomings stem directly from the requirements set out by Federal statute, while others are matters of administrative discretion not strictly determined by statute.



## SHORTCOMINGS IN GENERAL APPROACH

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*The overall approach to Federal oversight has not addressed many of the vital issues States face in administering child welfare programs.*

- Federal oversight has not recently prompted States to improve and address new and complex problems in child welfare.

The state of child welfare services has changed significantly since P.L. 96-272 was passed. Many sources have identified a crisis in child welfare services. Numerous disastrous incidents have occurred lately to children under State supervision.<sup>20</sup> State child welfare agencies are overwhelmed by escalating case loads and the increasingly complex problems of children in care. There are increasing numbers of infants in State care, many of whom have difficult medical problems caused by substance-abusing parents.<sup>21</sup> In addition, adolescents and teenagers in care frequently have substance abuse or mental health problems, or have been involved in criminal offenses.<sup>22</sup> These issues complicate substitute care situations and greatly decrease the chances of successful permanent placements. They also place tremendous burden on case-worker systems that are already at or above capacity.

State officials we spoke with did not think recent Federal oversight activities have helped them cope with current crises, because reviews do not address the most important issues in child welfare (such as appropriate methods to assist very troubled children and families). Some program improvements (such as reductions in numbers of children in long-term foster care placement and more effective coordination between agencies and their judiciaries) have occurred recently, but oversight is usually not spurring advancements in State programs. In fact, some States find that Federal oversight has had detrimental effects or has never had much positive effect on their programs. Some cited no changes at all. States cited a variety of changes that oversight has recently spurred that were not positive. For example, State officials felt that alterations to the case review process such as timing of the reviews, new procedural changes to an automated payment system, and changes to a case planning document to assure the documentation of requirements had no positive effects; in fact they felt these responses required attention and resources that could have been used to address important issues.

Several State officials mentioned that they had a hard time convincing their legislatures of the need for change without Federal dollars being at risk. Nevertheless even though every State has had a 427 review, only five States have failed 427 review since 1988 and, because of Congressional moratoria, no State has lost Federal funding because of a failure in that time period. Some observers feel it is time to move beyond the Section 427 requirements, in part because most States have adequately met the requirements.<sup>23</sup> States have been somewhat less successful in Title IV-E

reviews; nevertheless, of the States reviewed by ACF, only twelve States have had major (Stage II) disallowances in Title IV-E foster care reviews and only two States have had major (Stage II) disallowances in Title IV-E adoption assistance reviews in the last five years.

Even if the reviews were addressing the current set of problems, State action as a result of the reviews is voluntary. Except in the rare cases of disallowances, disregarding ACF findings may not have ramifications for the States. When States fare poorly, ACF's only mechanism for verifying improvement is to review them in the future. In general, ACF does not monitor or require documentation of policy, program, or system responses to Federal reviews.

- Federal oversight reviews have not identified severe problems with several States' child welfare programs that were specified in successful lawsuits against States.

In 4 of the 13 States in our study, lawsuits based on charges that States were violating Federal law resulted in court-approved settlements. These suits all were initiated after the passage of P.L. 96-272. While the allegations of the lawsuits were never subject to court adjudication, the plaintiffs in these suits accused the States of not making "reasonable efforts" to prevent removal of children from their homes and/or to rehabilitate their families so that the children could return home. Titles IV-B and IV-E require States to make these efforts. Problems identified in these cases included failure to adequately track children in care, poor-quality child protection investigations, extremely long placements in out-of-home care, and lack of State oversight of county-based services.<sup>24</sup> Lawsuits have been brought against more than 20 States; many have been based on violation of Federal law.<sup>25</sup>

In three of the four cases, according to State officials, Federal reviews covered the period of time that the suits' plaintiffs were in State care. In the other case, according to State officials, the lawsuit was not specific as to timeframe. According to officials in all four States, Federal officials did not identify the issues raised in the suits during reviews conducted before the States were sued. During reviews, ACF made no explicit mention of States inadequately preventing removal or rehabilitating families.

- Section 427 and Title IV-E reviews have been focused on the written record of case work, not on how well children are served.

The review standards for Section 427 and Title IV-E reviews, which are derived from Federal statute, are oriented toward documentation and the meeting of timing requirements. The Section 427 reviews look solely at whether actions were taken (and documented), not whether the actions were done well or had any positive impact on the child. The Title IV-E foster care and adoption assistance reviews also look at documentation issues and not at how well services were provided.

It is not clear that the statutory requirements for these reviews ensure effective service provision. In fact, several State and regional officials raised the possibility that States could pass reviews and still have poor child welfare programs. Most of the State officials and all of the regional officials we spoke with had problems with the "process" orientation of the Section 427 and Title IV-E reviews. Officials from every regional office mentioned that there needs to be more emphasis on qualitative measures and less on quantitative measures. A common concern was that the Section 427 reviews only check to make sure States are meeting certain timeframes rather than whether services provided yield improvement. This focus has made States emphasize passing the reviews rather than following the intent of the law.

Almost all State and regional office officials felt the Section 427 reviews should have objectives in addition to ensuring certain child protections are in place and assuring implementation of information systems on children in foster care.<sup>25</sup> Eight of eleven responding States and seven of ten responding regional offices felt that the 427 reviews should have different objectives. Officials in seven States and in six regions wanted the objectives to be focused on quality issues such as how fast a child gets placed and whether case plans are appropriate.

Many State and regional office officials felt that IV-E reviews should have objectives in addition to determining whether payments are made on behalf of eligible children, assuring payments are made to eligible providers, and assessing whether payment levels are allowable.<sup>26</sup> For example, officials in some States felt that the IV-E reviews should be focused on quality issues such as whether children are being moved through and out of the system quickly enough. Regional officials said that the reviews should have a variety of other objectives including focusing more on administrative and training costs, assessing fiscal and program issues together, and measuring quality.

State and regional office officials suggested changes to the entire oversight system to address these problems. Officials in almost every State and many regional officials expressed, in a variety of ways, a desire to have the Federal oversight system focused less on compliance with standards and more on the quality of child welfare services. Common suggested improvements included changing the process to be more helpful; focusing efforts on technical assistance; having oversight be outcomes-based, and emphasizing models for good practice.<sup>27</sup>

- Disallowances have often been based on issues that child welfare agencies do not control.

Several of the items that Federal statute requires ACF to review in Section 427 reviews and Title IV-E reviews relate to issues over which State child welfare agencies do not have complete control. For example, during Title IV-E reviews, the Federal government verifies that court orders indicate that reasonable efforts were taken to prevent family breakup or to reunify the family; and during Section 427 reviews, ACF checks each case to be sure that dispositional hearings are held within 18 months of the original placement. A 1993 survey of States done by the American Public Welfare

Association found that the leading reason for failure on Title IV-E reviews was related to judicial determinations; and on 427 reviews, was related to dispositional hearings.<sup>28</sup> Our respondents also reported difficulties complying with Federal requirements related to court orders and timing of hearings; our analysis of review reports demonstrated this problem as well.<sup>29</sup> In theory, taking money away from State child welfare agencies (and therefore from State budgets) might influence State courts to respond with new policies or procedures, but many State officials spoke about the lack of control and leverage they have over courts, and therefore, how unfair and ineffective it is to impose disallowances based on problems with the courts.

The courts, in some cases of disallowances, may simply be neglecting to provide needed documentation. For example, ACF officials we spoke with mentioned that, for some cases, they were able to assess that high quality case work was being done that would meet any standard of "reasonable efforts," and yet the court documents did not include language to that effect. These reviewers speculated that court officials simply neglected to put the language in the documents; the fact that they failed to include the language did not indicate that they thought efforts were less than reasonable. Despite this, ACF reviewers were required to find cases such as these in error.

A draft OIG report, by the Office of Audit Services, further discusses the difficulties States have complying with statutory eligibility requirements.<sup>30</sup> The report also examines problems raised by legal determinations prepared by courts and discusses the notion that eligibility requirements can be satisfied when substantial compliance has been achieved through reasonable efforts.

- The ACF has provided limited technical assistance to States; State officials say that ACF does not provide them with new information when it identifies program strengths and weaknesses and solutions to problems.

The most direct forms of technical assistance ACF has provided to States are now rarely available. Funding is no longer available for technical assistance provided by Child Welfare Resource Centers (CWRCs). Most State and regional office officials who had experience with or knowledge of the CWRCs felt they had provided useful services to States. (However, some central office officials felt that some non-CWRC contractors who offer technical assistance have provided States with inaccurate and overly expensive services.) Program reviews, the only oversight mechanism explicitly designed to provide technical assistance, have not been performed on a wide scale and have often been fraught with problems. The reviews have been done in only 15 States since being reinstated in 1990 and, according to a senior ACF official, ACF is not planning to conduct more in the near future. Many State and regional officials mentioned problems with the timeliness, scope, and design of program reviews (we detail many of these problems later in this report).

Many State and regional office officials would like ACF to be more involved in and better trained at providing technical assistance. Officials in some States would like to see the entire orientation of Federal oversight to be on technical assistance. Many

others felt this was an important role, but recognized that Federal officials are not expert in providing technical assistance and need to be better informed about the field of child welfare. Some regional officials also expressed a desire to be more involved in consultative work with the States. Many recognized a need to be more knowledgeable about State programs, specialized areas, and innovations in child welfare in general. Officials in the central office of ACF were particularly concerned that ACF has not provided adequate assistance to States on legal and compliance issues.

The ACF has convened regular meetings of States and made other efforts to share information with them, but many State officials said that ACF has not adequately shared information among States. Officials in States mentioned the specific need for the Federal government to share information on exemplary programs, on emerging issues, and on State practices. State officials also mentioned their desire to be able to read other States' plans in order to get a sense of issues, problems, and innovations. Despite the fact that one of the goals of program reviews is to identify exemplary approaches, Federal officials have acknowledged that no formal effort has been made to share information from these reviews among the States. In addition, central office officials point out that knowledge about States is usually localized to particular individuals in regional offices; there is no existing central repository for information about States.

It appears that, in general, Federal oversight has not effectively identified program strengths and weaknesses and helped States solve problems. All the responding States felt that the information ACF provided them on strengths, weaknesses, and solutions was information of which they were already aware. On average, respondents from States rated the effectiveness of Title IV-E reviews, 427 reviews, and the Title IV-B State planning process in identifying strengths, weaknesses, and solutions as less than "adequate." Regional office ratings were slightly higher, but respondents from individual regions felt these processes could more effectively address program issues in States.

# SHORTCOMINGS IN PROCESS

*Problems with the conduct of Federal review and planning activities have hampered their efficiency and effectiveness.*

- Federal review activities have been resource intensive for State agencies and ACF regional offices.

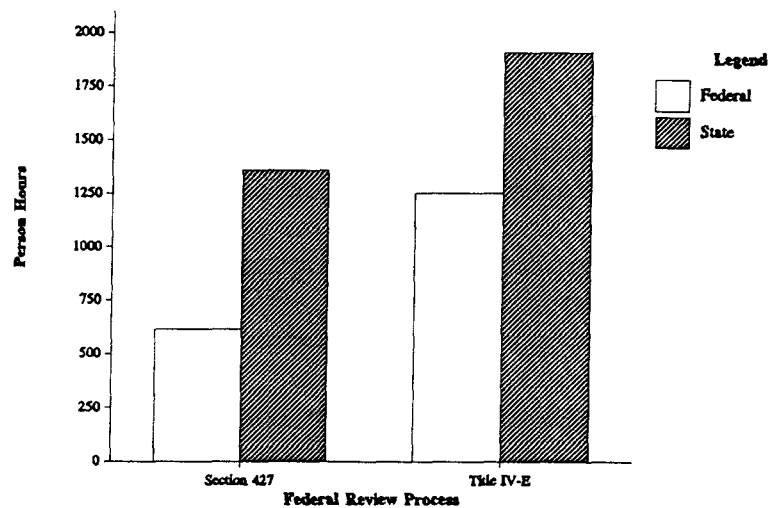
Almost every State felt that preparing for and participating in Federal reviews was an unnecessarily time-consuming process. Some State officials complained that far too much time and money are invested in reviews that no longer do much to improve the quality of services for children and families. State officials stated that many hours are spent preparing for, participating in, and following up on an individual review (officials in one State estimated that 4,400 staff hours were spent on these activities for one review). The ACF's own estimates make clear how resource intensive preparing for, conducting, and following up on Section 427 and Title IV-E reviews have been for States and the Federal government (see figure 1).

All of the States with county-administered child welfare programs we spoke with said they have faced additional burdens when preparing for Federal reviews. Because their programs are decentralized, they have an additional layer of bureaucracy to deal with in preparing for reviews. For example, one State official

explained that costs in one county for copying and shipping records to the State office for a 427 review were over \$2,000.

On average, according to ACF central office officials, program reviews have involved 15 people as reviewers and dozens more as participants. One large State, which has a county-based child welfare program, had a program review that involved over 100 people from ACF central and regional offices, the State agency, county agencies, State universities, agency staff, clients, and advocacy groups.<sup>31</sup>

FIGURE 1  
How Labor Intensive Are Federal Reviews?



Source: The Administration on Children and Families, Estimates on Average Costs of Title IV-E Reviews and Section 427 Reviews, 1993.

Almost every State we spoke with has spent significant time and money monitoring cases to ensure compliance with Federal requirements. Some States have established elaborate systems whose primary purpose is to prepare cases for Title IV-E and Section 427 reviews.

Federal officials spend much time drafting and redrafting reports. Central office officials point out that many reports to States include lengthy introductory and background sections that go into extensive detail on the States' organization, operation, and program choices--which is information about which the States are fully aware.

- Review reports have not been issued to States in a timely manner. This has diminished their capacity to improve child welfare programs.

Six of the 15 States that had program reviews in the last five years had not yet received even draft copies of their review reports by April 1993. Two States in our sample had yet to receive reports for Title IV-E reviews--one of which was conducted in 1983. Two States had yet to receive Section 427 review reports; one of these States had not received any formal feedback from reviewers who conducted their 427 review in 1987.

Officials in 11 out of the 13 States recounted specific incidents of not receiving review reports in a timely manner once the review had been completed. For example, 7 of the 12 States that had had IV-E reviews reported that they had waited at least one year for their final reports. Officials in regional offices supported State claims that there have often been long lag times between the conduct and issuance of review reports, particularly for Title IV-E and program reviews. In fact, eight of the nine responding regional offices said that Title IV-E review reports were rarely or never timely; all of the responding regional offices report that program reviews were rarely or never timely.

Moreover, as our examination of 69 review reports show, reviews have taken place and reports have been released long after the fiscal year under review was over. On average, Title IV-E reviews were released over two and a half years after the end of the fiscal year under review; and Section 427 review reports were released almost a year-and-a-quarter after the end of the fiscal year under review.

Despite the fact that States have often been briefed on the findings of a review during an exit conference, State and regional officials reported that delays in issuing review reports diminished their effectiveness and usefulness. Regional and State officials considered the retrospective nature of reviews to be a significant weakness of the oversight process because it focuses attention on past rather than current practice; this problem is heightened by a lack of timeliness in issuing the reports. State officials mentioned that untimely reviews have identified issues that have become irrelevant to current State programs; others were frustrated because windows of opportunity for

change have been closed by the time reports are released. In some cases, States have been left wondering about the outcomes or bases for disallowances.

Officials in all of the responding regional offices identified central office reviews as a major barrier to timely reporting. The ACF does not impose requirements on turnaround time for review of reports in the central office. Most regional officials claimed that reports have been reviewed by too many central office staff. The ACF central office is aware of this problem, and has recently taken steps to remedy it for program reviews. They have revised the review protocol for program review reports so that reports are circulated only through the Children's Bureau rather than all of Administration on Children, Youth and Families (ACYF) before being returned to the regional offices.

Also, central office officials, while acknowledging shortcomings in the report review process, pointed out that this is not the sole source of problems with timeliness. They viewed the report writing process as a collaborative one and therefore felt that both regional and central offices are responsible for the timeliness of reporting.

- States expressed confusion about the Federal review procedures resulting from poor communication by Federal officials.

While most State officials said that they were given information about standards by their regional offices prior to the reviews, officials in 11 of the 13 States cited specific problems with the transmission and communication of standards. State officials mentioned difficulty getting ACF to resolve review-specific policy issues, differing interpretations of standards between ACF central office and regional office staff, recently issued review handbooks that were already obsolete, and inconsistent messages in reviews over time. This poor communication apparently caused serious problems for States. For example, one State was unsure how to claim foster parent training costs; another could not get policy guidance on State and tribal jurisdiction. Inconsistent messages about sample selection for Section 427 reviews has made another State unsure about when to conduct periodic reviews and judicial determinations (see table 1 for other examples of States' problems with communication of standards). We did not independently validate the accuracy of States' claims about inconsistencies and inadequacies in communication about standards. Nevertheless, we believe the very fact that States feel these are problems indicates a need for better communication.

Some State and regional office officials have attributed poor communication of review standards and regulations to the lack of formal review guidelines and regulations. For example, Section 427 reviews were first implemented in 1980, and to date, there are still no regulations. Another source of confusion has been the absence of final Title IV-E review regulations on methodology and audit procedures.

While States have cited problems with communication of standards, we did not find evidence that ACF has misapplied Federal statutory requirements in developing



**TABLE 1  
SPECIFIC PROBLEMS WITH STANDARDS  
ACCORDING TO STATE OFFICIALS**

**COMMUNICATION**

- \* *The State was never given a copy of the most recent Title IV-E review handbook.*
- \* *A critical change to the IV-E review checklist was not communicated in advance.*
- \* *The State has not yet seen the IV-E foster parent training regulations.*
- \* *There was some confusion in communication from the Federal government over how different funding streams work.*
- \* *The current 427 handbook is already out-of-date.*
- \* *Some standards in the reviews are not consistent with information presented in policy guidances.*
- \* *Because communication from the regional office is poor and sometimes inconsistent, the State speaks directly with central office ACF officials and outside organizations about interpretations.*
- \* *Subtle twists and variations on standards have been added during reviews.*
- \* *Regional offices and States had difficulty resolving policy questions around tribal versus State jurisdictions (re: funding).*
- \* *States were unable to get regional office response on whether medical and education records were to be included in the Section 427 reviews.*

**CONSISTENCY OVER TIME**

- \* *The State was criticized for something that it had been praised for two years earlier.*
- \* *There was a new twist in the latest review on whether administrative case plans should be signed in every review.*
- \* *There has been a lack of consistency in guidance on what to consider the date of removal.*
- \* *There has been a lack of consistency in communications about whether to include children in relative care in the 427 sample.*
- \* *The regional office has changed its opinion on whether standards applied to adoption services.*
- \* *The regional office has inconsistently ruled on whether agreed orders are acceptable.*
- \* *The State was surprised by the standards on licensure and on child support enforcement issues on the Title IV-E review.*
- \* *Review standards have become stricter over time.*

**CONSISTENCY ACROSS STATES**

- \* *The State was required to pay back voluntary IV-E money, while another State was not (this was appealed and the State won).*
- \* *Federal officials did a triennial 427 review two years after the State had passed a triennial review.*
- \* *Within the region, there have been different interpretations in several States on how to allocate university training costs for IV-E administrative cost claims.*
- \* *The removal-from-home standard was different for a State in another region.*
- \* *States are held to standards issued after the end of the fiscal year under review.*

*Source: Interviews with 13 States conducted by Office of Inspector General, May 1993.*

*Note: The OIG did not independently validate the accuracy of these claims.*

review standards.

- There has been inadequate Federal/State interaction on child welfare oversight issues.

The majority of regional officials said that States should be reviewed more frequently. Officials in 6 of the 10 regional offices reported that States have not been reviewed frequently enough. Since 1988, according to ACF records, five States have not had their Title IV-E foster care or adoption assistance payments reviewed; only 15 States have had program reviews since they were reinstated in 1990. State officials stated that the lack of contact has made it difficult for ACF officials to understand the local child welfare context.

Many State and regional office officials would like to increase the level of collaboration around the IV-B joint State plan process. Officials in about half of the States viewed the Title IV-B joint State planning process as an effective mechanism, but usually despite, and not because of, ACF involvement. State officials cited a general lack of contact with regional office officials as a major problem with the process. Most regional officials reported that they were only able to make one or two visits to the States per year to work on the joint State plan, but they believed for planning to be truly collaborative they should be making quarterly visits. Regional officials felt the lack of travel money constrained them from conducting site visits to the States.

- Officials from ACF and States question whether Federal review and planning mechanisms have been adequately meeting their stated objectives.

Many regional and State officials were uncertain about whether the Title IV-E review process was meeting all of its objectives. Regional officials, in particular, said that the Title IV-E reviews were too broad; they were expected to examine so many different areas that it was almost impossible to check any one area as thoroughly as they would have liked. Because the Title IV-E review was so broad, regional office and State officials questioned how well these reviews assured that payments were made to high quality homes and institutions. There was no effort to inspect the sites, and most reviewers just checked to see if homes and institutions were on a list provided by the State. Some regional and State officials were also uncertain about whether payment levels were allowable under Office of Management and Budget (OMB) provisions.<sup>32</sup> This was primarily due to lack of knowledge of what the Federal and State funding levels should be.

Officials in seven of eight responding regions said that program reviews were not meeting at least one of their objectives. The most frequently mentioned reason why they thought program reviews were not meeting their objectives was that they were too comprehensive. Other problems with the program review cited by regions were lack of any clear methodology, an unwieldy data collection instrument, inconsequential findings, and lack of information to help States solve programmatic problems.

Half of the regional offices reported that Section 427 reviews have not been meeting all of their objectives. In particular, they thought these reviews were not adequately assuring the implementation of a State-wide foster care information system. Regions said that the level of sophistication of the State-wide information systems varied from simple handwritten lists of cases to computerized management information systems.

Most regional office and State officials thought that Title IV-B joint State plans have not been developed collaboratively. Many State officials mentioned that the process was not truly "joint" because the Federal government does not provide much in the way of suggestions for planning. Some did not find the State plan at all helpful. Six States remarked that ACF has done nothing in the way of oversight or assistance to assure that the State plans are implemented.

The Title IV-E State plan was seen as largely a paper exercise. State officials and ACF officials agreed that it is rarely, if ever, looked at by ACF.

## RECOMMENDATIONS

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Oversight of State child welfare programs continues to be of intense interest to the Congress, HHS, the States, and others. Congress has placed a moratorium on Section 427 and Title IV-E review disallowances until October 1994. This moratorium has coincided with efforts that ACF is making to reevaluate monitoring activities throughout the agency and look specifically at program review and State planning activities. Many review activities are on hold. Senior ACF officials have indicated, in discussions with us, their desire for improvements to the oversight process; they view the coming year as an opportune time for changes. Legislation proposing to reshape certain aspects of the oversight process (such as eliminating Section 427 and reformulating some parts of it as State plan requirements) was introduced on November 17, 1993.<sup>33</sup>

We hope this report will provide information to help guide decisions on the course of oversight. We intend for the following recommendations to set out the key areas in which improvements are needed. We list broad recommendations, then more specific implementation options for each. We do not prescribe a specific course of action, but instead offer options for policymakers to consider and leads for them to follow as they develop an oversight framework and specific approaches (see appendix E for a more detailed evaluation of the options). Some options are not consistent with others, while other options fit together very well. Our goal is to offer as many practical ideas as possible.

Coming up with solutions to the problems we have raised will not be easy. In many cases, the current oversight approaches and processes are set by Federal statute. Some of the options we present may therefore require changes to the statute (these are denoted by a  $\delta$ ). Other options could be implemented at the discretion of ACF without Congressional approval (see appendix E).

In recent years, ACF has focused oversight activities primarily on assuring that Federal funds are spent legally--that eligibility requirements are met, that legal protections are documented, that claims are valid, etc. It is important for ACF to maintain this principle of stewardship of Federal funds. It is at least as important for ACF to work in partnership with States to make programs work well. Therefore, as a second and equal principle, oversight activities should encourage States to constantly improve programs so as to better assist families and children in need. The ACF's oversight activities, for a variety of reasons, have not adequately encouraged States to improve. Our recommendations are focused at helping ACF and the States pursue both these principles.

*In order to improve its oversight of State child welfare programs, the ACF should:*

**Provide States with more and better feedback on issues related to program performance.**

Officials at the State and Federal level asserted that the current oversight mechanisms focus too much on process issues that have little to do with the quality of services provided to children in need.

Implementation options

- Performance Indicators *Develop performance indicators, collect State-by-State information on them, and disseminate this information to all States on a periodic basis.* Because there are not any widely accepted definitions of successful child welfare practice, it could be extremely complicated to develop performance indicators. The task could be limited initially by pilot-testing a small number of indicators. Some of the difficulty gaining States' acceptance of the indicators would be lessened by not linking the indicators to financial sanctions. States would likely find it very helpful to track performance over time and compare themselves with others. Getting this information would help raise questions and keep State officials focused on results. The development and testing of performance indicators in this way could evolve into an outcomes-based review system as outlined below. The ACF could pursue one of a number of avenues in its development of performance indicators; here we suggest two. One idea is for ACF to identify how States currently measure their own performance and what kinds of information they collect on a regular basis to inform their funding and program decisions. It could be that many States already agree upon a small set of measures and these could be used as a basis for pilot testing national collection of this information. Another idea is to hire a contractor, possibly one associated with a national association that already has contact with the States, to develop a pilot indicator system.<sup>34</sup>
- Outcome-Based Reviews<sup>6</sup> *Replace existing review mechanisms with new review processes that relate resources to outcomes.* Some States have argued that this is the direction they think reviews should go--in part because it would allow them to argue very forcefully with their legislatures for adequate funding (in fact, several legislatures are considering requiring agencies to justify funding based on outcomes). On the other hand, the difficulties mentioned above about development of performance indicators would be heightened if outcomes measures were used in reviews. If financial assistance were based on performance, it could be enormously difficult to decide upon measures to be used. It will be necessary to develop measures using the approach outlined in the first option in order to reach a practical consensus on expectations. This option might require new legislation.

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<sup>6</sup>May require new legislation.

Any of the existing review mechanisms, including Title IV-E reviews, could be altered to become outcome-based.

**Find new ways to work with States to make program improvements and address problems.**

Existing oversight mechanisms do very little to encourage States to make improvements and to address problems. The mechanisms are not helping States be innovative and do not encourage continuous improvement.

Implementation options

- Corrective Action Plans<sup>6</sup> *Rather than automatically sanctioning States financially in response to adverse review findings, use, when appropriate (i.e., at the discretion of the Secretary), the results of reviews to develop corrective action plans, with agreed-upon time frames, to improve programs and enforce legal requirements. Waive or reduce disallowances, when appropriate (at the discretion of the Secretary), if States comply with plans and time frames.*<sup>35</sup> The existing oversight system, with its disallowances and financial penalties, can have the effect of further weakening States that are having problems. By allowing for improvement and laying out specific actions that must be taken, ACF would become a partner with States and prospects for improvements in programs would be greater. The law might have to be altered to implement this option without precluding ACF from disallowing State funding when Federal law is being significantly neglected and without imposing a "re-review" burden on ACF. Any existing or future review mechanisms could use corrective action plans.
- Accreditation<sup>6</sup> *Using new or existing accreditation bodies, make accreditation of programs a Title IV-B State plan requirement. Oversee the accreditation bodies to assure that they are fair, reasonable, and pursuing continuous improvement. By relying on independent bodies to accredit States, ACF could potentially avoid some conflict with States and free up resources for other oversight mechanisms. Finalizing reliable accreditation standards will not be simple for any body to devise, but work has begun in this area already. To change State plan requirements, it is important to change the law. States would have to be able to get reimbursement from ACF for the costs of accreditation.*
- Quality Assurance *Require States to have quality assurance programs that look at the quality of case work. Many States conduct quality assurance activities that look primarily at whether documents are in place to comply with Federal requirements. The units that conduct these activities could be focused on more significant quality assurance activities; they could involve case workers in the assessment exercises. Although the States could see this as too prescriptive, ACF could specify in*

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<sup>6</sup>May require new legislation.

guidance or regulation what types of quality assurance should be done by States. This would put the onus of program improvement on the States. According to some ACF officials, the States are harder on themselves than ACF is. The additional administrative expenses for States could be significant for this option, but it would, after implementation, require little day-to-day management by ACF. An important issue to resolve is the level and nature of Federal reviews of each State's quality assurance activities.

### **Improve current planning and review processes to make them more effective.**

State and ACF officials feel the current review processes are too focused on unimportant documentation details. The current methods also do not give States incentives to improve. If the current review methods are replaced in the future, new methods should remain attentive to issues of effectiveness.

#### Implementation options

- Title IV-B Planning Emphasis *Put less emphasis on compliance reviews (such as the Section 427 reviews) to assure protections are in place in States and, instead, use a revitalized joint planning process to provide strategic direction that will lead States to effective child welfare programs.* While the Title IV-B planning process is currently not very effective, more leadership from ACF on the process could allow it to push for the types of improvements that many of the compliance reviews now seek. Regional staff might need additional training to properly undertake this role, but this shift in roles could make the oversight process more efficient and effective. The ACF has mentioned in draft program instructions the possibility of more emphasis on joint planning.
- Substantive Title IV-E Reviews<sup>6</sup> *Use the Title IV-E review process to assure States are substantially complying with foster care case planning and review and judicial determination requirements. Limit disallowances to instances of substantial non-compliance.*<sup>36</sup> The Title IV-E review process is often focused on whether certain forms are filled out appropriately rather than whether, in fact, the purpose of the law in preventing unnecessary placements is being met. The option may require reviewers to dig much deeper into case records to test whether the States have "substantially complied" with requirements. This will make the reviews more labor-intensive and may require training of reviewers to make them able to judge substantial compliance. Legislation to alter current law would be necessary to implement this option. A draft OIG report, by the Office of Audit Services, includes much detail on this subject.<sup>37</sup> Clearly, this option might lessen the responsibility and authority the courts have in assuring child protections. One approach that might preserve the authority of the courts and address some problems would be for reviewers to make independent judgments on compliance

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<sup>6</sup>May require new legislation.

with the court-related protections only when the courts did not make explicit judgment one way or the other on the protections. For example, if a court simply did not specify that reasonable efforts were made, using this approach, reviewers would be able to make that judgment independently. However, if the court specified that reasonable efforts were NOT made, reviewers could not second-guess this judgment.

- 427 Incentives<sup>6</sup> *Alter the Section 427 review process to provide better incentives for improvement. Rather than having full compliance with process requirements be the standard for 427 funding, score States based on quality of case planning and reviews once they have passed a triennial review and make the size of the grants in the coming three years dependent on the scores.* States may prefer the current system, but this option would allow for two things: (1) qualitative assessments of State performance and (2) explicit incentives for improvement. Creating a qualitative assessment mechanism would be very complex--the outcomes measures mentioned in the first recommendation might be necessary. With the current moratorium on 427 disallowances and many observers calling into question the whole mechanism, it may not be sensible to seek adjustments to Section 427. This approach could require legislative action.
- Focus Program Reviews *Change the approach of program reviews to use them only when indicators of problems are raised through other reporting or review mechanisms. Develop strategies to address those problems only.* This option would significantly change the purpose and conduct of program reviews by requiring them to be much more focused on investigating particular problems. By focusing the reviews, the likelihood of the reviews adding value to the States would be increased. While an attempt to address any one problem could require an analysis of many aspects of a State's child welfare program, a scope that is narrower than all child welfare services would likely be less costly than current reviews. Also, with a narrower scope, it would be more likely ACF could produce reports in a timely fashion.
- One State Plan<sup>6</sup> *Require States to submit one coordinated State plan for all child welfare services.* Currently States must submit separate planning documents for Title IV-B Subpart 1 child welfare services, Title IV-B Subpart 2 family preservation and family support, Title IV-E foster care and adoption assistance, Title IV-E independent living, and child abuse and neglect. The Title IV-E foster care and adoption assistance plan, in particular, appears to serve little purpose. The ACF could coordinate all of these planning activities and thus encourage States to think comprehensively about child welfare services. The law might have to be changed to implement this option. The ACF mentioned in draft program instructions the possibility of creating a consolidated State planning process.

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<sup>6</sup>May require new legislation.



## Make more efficient use of resources required to conduct reviews.

Significant State and Federal resources go into preparing for and conducting reviews. It appears that the reviews may not be conducted efficiently. Improved review efficiency could allow ACF a more active role in other important areas such as technical assistance. If current review processes are not going to be replaced, they should be made more efficient; regardless, the lessons learned here should be heeded under any oversight system.

### Implementation options

- Title IV-E Reviews - Automation *Automate the Title IV-E review process.* This would require a massive investment in improving management information systems in States (a worthwhile cause in its own right), but could allow for much simpler review and oversight of eligibility and payment issues. Clearly, this is not an option that could be pursued in the short run, but may be a long run objective.
- Title IV-E Reviews - Self-Certification<sup>δ</sup> *Allow States to certify that their payments are eligible under Title IV-E.* Some States argued that they are being reviewed over and over for the same issues. The Federal government allows States to conduct State-wide (A-128) audits. The State-wide auditors look at the same issues as ACF auditors. In general, when a State has conducted an A-128 audit, ACF will accept the State's findings and not conduct a review in that year. This practice could be expanded or some other form of self-certification or review could be instituted. The ACF would have to be aggressive about following up on self-certification or audit processes.
- Title IV-E Reviews - Limited Scope<sup>δ</sup> *Limit the Title IV-E reviews to income eligibility and payment allowability issues.* Given the lack of control State child welfare agencies have over courts, basing disallowances on issues such as content and timing of court orders may be the wrong emphasis. Furthermore, giving States fewer resources may not make it any easier for States to meet these requirements. It is possible that ACF could use other mechanisms--such as technical assistance or better State planning efforts--to encourage States to meet the spirit of these requirements. Since Federal statute lays out these requirements, in order to implement this option, the law would have to be changed.
- Section 427 Reviews<sup>δ</sup> *Discontinue Section 427 reviews or sharply reduce the use of them.* Most States have been successful on Section 427 reviews. It may no longer be cost-efficient to review all States for these requirements. Once a State has passed a triennial review, it could be argued that it has met Federal requirements and does not have to be reviewed using the same standard again. It could also be argued that because the reviews look only at process issues, they should not be

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<sup>δ</sup>May require new legislation.

done at all. However, this would miss the few States that are not currently in compliance with the Section and might allow currently complying States to fall out of compliance.

- Discontinue Planning and Program Reviews<sup>6</sup> *Use other technical assistance efforts instead of Title IV-B joint planning and program reviews.* If technical assistance is going to be provided by outside contractors as stated above, it may not make sense for ACF to be heavily involved in technical assistance. In fact, many ACF and State officials felt that many ACF staff have not been given sufficient training to perform technical assistance.
- Limit Background Sections *Shorten introductions to reports, which often focus on information about which the States are aware.* This option would make the product of reviews more readable and would probably improve timeliness of reporting. It would, however, make reports less effective as general informational resources for ACF and for other States.

**Provide States with more useful, comprehensive, and expert advice on management, program, and technical issues.**

A common theme in comments by State and ACF officials was the need for better and more technical assistance. Good technical assistance can help States devise solutions to problems. It probably does not make sense, for reasons of cost, to implement more than one of these options.

Implementation options

- Existing Mechanisms *Focus more resources on joint planning, program reviews, and the training of regional officials to conduct technical assistance.* While planning and program reviews have had many problems, more attention and funding to them would greatly alleviate many of the issues. To increase these efforts effectively, central office and regional office officials should have access to adequate training in program areas and technical assistance. Coordinating training so that all ACF officials providing technical assistance in a particular area will provide similar information to States would be helpful.
- Non-governmental Contracts *Use funds to contract with non-governmental organizations to provide general technical assistance to States.* This option has the advantage of depending on existing expertise. Since some ACF officials have expressed concerns about some technical assistance providers, the process for selecting contractors would likely need to be rigorous. While the contracts could be similar to ones for the former Child Welfare Resource Centers, States did not use the centers' services fully because they were unable to afford the services. Therefore, the Federal government will likely need to provide much more funding to have States utilize the contracts fully. This effort would require significant new

funding. The ACF has indicated its plans to continue to contract with non-governmental organizations to provide technical assistance to States.

- Problem Areas *Using a combination of ACF officials and outside contractors, provide intensive technical assistance to States or regions of States that have extreme problems.* This allows the combined strengths of ACF officials and outside contractors to be used to focus on big problems. While individual efforts would be expensive and disruptive to daily work, this approach would not require ongoing funding or staff attention. It has been done in one State successfully. The focused program reviews, mentioned above, could be tied in with these efforts.

#### **More effectively share information with and among States.**

Many States mentioned the need for more and better information about what other States are doing.

#### **Implementation options**

- Effective Practices *Using oversight mechanisms, identify effective practices. Produce regular (at least semi-annual) reports that outline these practices and list contacts in the States. Actively share reports and State plans that outline effective practices.* This would be a relatively low-cost process. It appears regional offices are already identifying effective practices in many review reports; they are just not sharing this information widely. State officials spoke about difficulty getting ACF to share information from other States. While ACF currently has no central repository for reports and State-specific information, States and ACF might find it very helpful if a repository were developed and information from it were distributed.
- On-Line Service *Develop a simple, electronic, on-line service for States to share information about strategies, innovations, and other issues.* While this option might be expensive to set up, it would be inexpensive to run and would encourage active dialogue among States.

#### **Improve and clarify communication with States about program standards.**

State officials expressed a high degree of dissatisfaction with communication about standards for reviews. The ACF has recently funded a contract for a policy retrieval system that will make all policy issuances, program announcements, information memoranda, etc., electronically available to States and others. While this should improve the situation, we offer some further suggestions.

#### **Implementation options**

- Reasonable Efforts *Collect information on States' definitions of "reasonable efforts" and identify model definitions.* One of the key areas about which States are extremely confused is in the definition of this term; Congress is considering

requesting a study on this issue.<sup>38</sup> Identifying model definitions would help States immensely but would cause controversy.

- Central Office Hotline *Establish a central office hotline to respond promptly to regional office and State inquiries about review policy, standards, and interpretation of regulations and statements. Follow up inquiries with written confirmations that are shared with all States and regional offices.* A hotline would require responsive decision making and authoritative statements on matters of concern to States. It might take some responsibility and autonomy away from the regional offices, but could address significant problems States have had getting clear and prompt responses. It could possibly result in States having less frequent and, therefore, less productive contact with regional offices; on the other hand, it could free regional officials from having to provide review-specific policy interpretations and allow them to have more contact on programmatic issues.
- Program Regulations *Publish comprehensive program regulations for Section 427 and Title IV-E that would be subject to notice and comment.* State officials and others have noted a need to have review policies much more clearly defined. The most straightforward solution would be to produce final regulations.

#### **Improve the timeliness of reporting on results of reviews.**

One of the least complex problems identified in this report was the lack of timeliness of reporting to States the results of Federal reviews.

#### **Implementation options**

- Mandatory Turnaround *Require reports to be issued within a set time after a review is complete.* This is the most straightforward way to improve timeliness, but it may bind ACF too much. If ACF does not complete reviews in a timely manner, States would be able to appeal decisions on that ground alone.
- Performance Reporting *Develop goals for turnaround of reports. Then collect and disseminate information on the timeliness of reporting.* This is a low-risk option for ACF, but it may not provide enough incentive for improvement. Increasing the awareness of the magnitude of timeliness problems would likely be helpful.
- Streamline Decision-making *Clarify who in ACF has the authority to decide on policy matters and final reports.* Currently, there are frequent discussions over who has authority to make what decision. This change could clarify roles quite a bit and potentially speed the process. The recent initiative to streamline the review process on program reviews is a step in the right direction. Similar (and further) streamlining could be considered for all types of reports.

- Limit Scope of Reviews<sup>δ</sup> *Reduce the complexity of the reports by narrowing the scope of the reviews.* It could be that by narrowing the scope of the reviews, the ACF report clearance process would be dramatically simplified. There are several options on how to lessen the complexity of the reviews, including limiting the scope of Title IV-E reviews (as noted above) and parsing reviews into stages.

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<sup>δ</sup>May require new legislation.

## COMMENTS ON THE DRAFT REPORT

We shared our draft report with and solicited comments from the Administration for Children and Families (ACF), the Assistant Secretary for Planning and Evaluation (ASPE), the Assistant Secretary for Management and Budget (ASMB), and the Assistant Secretary for Legislation (ASL). The ASMB and ASL advised us that they had no comments. We received written comments from ACF and ASPE. We reproduce these comments and provide detailed responses to each in appendix C.

We are pleased that ACF concurred with our recommendations and found the report useful. While ACF did not suggest any changes to the report, we altered the report to reflect the action they have taken already on the recommendations. Staff in ACF informally provided minor technical comments to the report which resulted in several changes.

We are also pleased that ASPE felt the report was informative and valuable. The ASPE made several technical comments, mostly aimed at clarifying our discussion of the Family Preservation and Family Support Act. We have made necessary changes in response to those comments.

# APPENDIX A

<b>MAJOR FEDERAL CHILD WELFARE PROGRAMS</b>						
<i>TITLE</i>	<i>1993 estimated funding</i>	<i>Funding type</i>	<i>Covered services</i>	<i>Eligibility criteria</i>	<i>Match rate</i>	<i>Financial oversight mechanisms</i>
IV-E	\$2.854 Billion	Open-ended entitlement	Foster care and adoption assistance maintenance payments, independent living, administration and training	Children from AFDC-eligible families only	Medicaid match rate for maintenance, 50 percent for administration, and 75 percent for training	Title IV-E reviews, Title IV-E State plans
IV-B	\$295 Million	Capped entitlement with incentive funding	Full range of child welfare services including family preservation efforts, child protection services, and reunification services.	None	75 percent	Title IV-B joint plans, Section 427 reviews
XX	\$770 Million (estimated claims for child welfare services)	Block grant	Social services including child protective services, services to prevent placement in foster care, and substitute care programs.	None	No State funding required	None

## APPENDIX B

<b>FEDERAL OVERSIGHT MECHANISMS FOR STATE CHILD WELFARE SERVICES</b>						
<i>REVIEW PROCESS</i>	<i>Services reviewed</i>	<i>Are case records reviewed? How many are reviewed?</i>	<i>Can money be taken away as a result of reviews?</i>	<i>Are administrative costs reviewed?</i>	<i>How often are the reviews conducted?</i>	<i>Are the reviews mandatory?</i>
Title IV-E reviews	Foster care and adoption assistance	Yes. Stage I reviews 50 payments. If high error rate, then Stage II reviews at least 200 payments	Yes. Stage I: only claims in error are recouped. Stage II: sample error rate applied to universe of payments	Yes, either in combination with or separately from other reviews.	No set schedule. Some States are reviewed yearly; others have not been reviewed in over five years.	Yes. States are subject to review once they receive Title IV-E funding.
Section 427 reviews	Foster care	Yes. Sample of 140 cases drawn from children in foster care for at least 6 months.	Yes. State can lose incentive funding.	No, but administrative procedures are reviewed in the initial review.	At least once every three years.	Yes. States are subject to review once they certify eligibility for 427 funds.
Program reviews	All child welfare services	Can be, but no number is set in advance.	No.	No, but administration of the program is reviewed.	No set schedule. No State has been reviewed more than once since reinstated.	No.
<i>STATE PLAN PROCESS</i>	<i>Services covered</i>	<i>How often are plans submitted?</i>	<i>Do States develop it alone?</i>	<i>Format</i>	<i>Are annual updates required?</i>	<i>Are there penalties if State plans are not adhered to?</i>
Title IV-B	All child welfare services, including Title IV-E services and services not funded by HHS	At least once every three years.	No. States and ACF are supposed to develop plans jointly	The format is relatively unstructured.	Yes.	No.
Title IV-E	Foster care, adoption assistance, independent living, training and administration for AFDC-eligible children.	At least once every three years.	Yes.	States fill out preprinted forms.	No.	No.



# APPENDIX C

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## DETAILED COMMENTS ON THE DRAFT REPORT AND OIG RESPONSE TO THE COMMENTS

In this appendix, we present in full the comments on the draft report offered by the Administration for Children and Families (ACF) and the Assistant Secretary for Planning and Evaluation (ASPE). We also present our response to each set of comments.



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES  
Office of the Assistant Secretary, Suite 600  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

April 13, 1994

TO: June Gibbs Brown  
Inspector General

FROM: Mary Jo Bane *MJB*  
Assistant Secretary  
for Children and Families

SUBJECT: OIG Draft Report: "Oversight of State Child Welfare Programs," OEI-01-92-00770

Thank you for the opportunity to comment on the draft report, "Oversight of State Child Welfare Programs." We appreciate the thoughtful and provocative document that your office has developed in its review of the Federal stewardship process and we concur with the issues and recommendations that are outlined in the report.

The Administration for Children and Families (ACF) is presently involved in revising its monitoring policies and procedures, and this report is especially timely and helpful in that regard. It will also assist the ACF in establishing guidelines to ensure the administration of quality child welfare programs which will positively affect children and families.

Staff from the Children's Bureau (CB) have collaborated with your staff and have commented on earlier versions of this report; their comments have been incorporated. The ACF has already begun to implement some of the recommendations that are presented in this report. Specifically, the development of a single, coordinated State Plan that encompasses title IV-B, title IV-E, child abuse and neglect, and the range of child welfare services into one document is a proposal that we are pursuing actively. The AFCARS (Adoption and Foster Care Analysis and Reporting System) regulations have been published and the CB expects to begin receiving State-specific data by May 1995. Further, the CB plans to negotiate with private contractors to provide general technical assistance to States. Finally, several months ago the CB awarded a contract for a policy retrieval system that will make all policy issuances, program announcements, information memoranda, etc., electronically available to State and local agencies, public and private organizations, advocacy groups, educational institutions, and the general public. This system will be fully operational in July 1994.

We look forward to the issuance of a final report and a continuing dialogue with you and your staff.

## OIG RESPONSE TO ACF COMMENTS

We are pleased that ACF concurs with our issues and recommendations. We are also pleased that it has already begun to implement some of the recommendations. We have made changes in our report to reflect these actions.

In particular, we included references to the action ACF is considering on consolidating the State planning processes, added a reference to the continuation of non-governmental contracts to provide general technical assistance, made clear the action ACF has taken on improving policy dissemination, and removed references to the need to develop final regulations for the Adoption and Foster Care Analysis and Reporting System.

Staff at ACF informally extended minor technical comments to the draft report, all of which resulted in changes to the report. None of these changes affected the thrust of our discussion.

The ACF recently drafted a report on its monitoring activities (including for child welfare). It indicates a bold, ambitious, and extremely important new direction for monitoring. If implemented, the ACF's draft recommendations would address many of the issues and respond to many of the recommendations in our report.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

MAR 4 1994

TO: June Gibbs Brown  
Inspector General

FROM: Assistant Secretary  
for Planning and Evaluation

SUBJECT: OIG Draft Report "Oversight of State Child Welfare  
Programs," OEI-01-92-00770

Thank you for the opportunity to review and comment on the draft report "Oversight of State Child Welfare Programs." I found it to be an informative report that provides useful information regarding Federal oversight of State child welfare programs. While, as the report notes, many of the observations have also been made by other sources, independent confirmation is helpful.

This report should prove valuable as HHS considers changes in these programs. In particular, the observation that oversight activities focus primarily on narrow paperwork compliance issues rather than on how well children are being served should lead us to improve these programs and our administration of them.

We have attached some comments, most of which clarify the discussion of the new Family Preservation and Support law.

  
David T. Ellwood

Attachment

PREPARED BY: OS/ASPE/HSP/CYP:BBroman:690-6461

Comments on OIG Oversight of State Child Welfare Programs

1. On pages vii and 29, the report indicates the need to publish the Adoption and Foster Care Reporting System (AFCARS) regulations. They were published in the Federal Register on December 22, 1993. Also, you should note that OBRA 93 provided for an enhanced match for AFCARS. The interim final rule on this provision was also published in the Federal Register on December 22, 1993.
2. The Title IV-B discussion on page 2 is inaccurate. The new Family Preservation and Support capped entitlement program, passed as part of OBRA 93, established a new Subpart 2 of the Title IV-B Child Welfare Services section. This capped entitlement is \$60 million in FY 95 and \$930 million over five years. The existing Child Welfare Services program, a discretionary program of \$295 million in FY 95, is now Subpart 1 of IV-B. Section 427 only applies to Subpart 1. A discussion of the services under each of these subparts should be handled separately. Other places in the report, such as on page 25, will also need to be changed.
3. The discussion of OBRA 93 on page 4 also needs to be changed to reflect our comment above. In addition there are several other problems with the section--
  - o The original bill, which was the Administration's bill, included not only the new family preservation and support program but a variety of improvements to the current child welfare and foster care programs. These were dropped due to the Byrd rule.
  - o The other provisions passed in OBRA 93 that you refer to are confusing.
    - First, the \$2 million in FY 95 and \$6 million each year thereafter for research, evaluation, training and technical assistance is for the new Title IV-B Subpart 2 capped entitlement for family preservation and support. It is not for broad child welfare services evaluation and training and technical assistance. ASPE and ACF have developed an evaluation strategy for this new program and work has begun to award contracts for this work. The bulk of the funding set-aside in the capped entitlement will be for evaluation.
    - Second, the changes in the state plan requirements for the child welfare services program was dropped from the law due to the Byrd rule.
4. On page 7, we suggest that you review the statement that children no longer get lost in the foster care system to

States are improving their ability to track children in foster care.

5. The reference on page 22 and 27 to the research, training, and technical assistance should be dropped since this set-aside is for the family preservation and support program.
6. The discussion on page 23 about corrective action plans could be strengthened by mentioning that the Administration's bill included a provision on conformity reviews. While this provision got dropped because of the Bryd rule, it does demonstrate that the Department recognizes that changes to this process are needed.
7. You may want to mention under Title IV-B Planning Emphasis on page 24, and again on page 25 under One State Plan, that ACF discusses the possibility of a joint planning process in the Program Instructions for the Family Preservation and Support program.
8. Also, on page 24 under the Substantive Title IV-E Reviews you may want to mention the grants to States to assess and improve handling of proceedings relating to foster care and adoption. These are funded out of the new Title IV-B Subpart 2 capped entitlement program for family preservation and support.
9. On page 18, you indicate that Congress is considering requesting a study on reasonable efforts. We suggest that you clarify this to indicate that the Congress included in the Conference Report accompanying OBRA 93 that the Department should conduct a study on reasonable efforts.
10. We suggest that you drop the reference to OMB on page 29, program regulations. It refers to an internal review process in which we should not single out OMB.

## OIG RESPONSE TO ASPE COMMENTS

We are pleased that ASPE found our report informative and useful and that the Department is considering changes to the programs.

The ASPE had a number of technical comments, most of which related to our discussion of the Omnibus Budget Reconciliation Act of 1993 provisions related to Family Preservation and Family Support. We have made a number of improvements to the report in response to those comments. In particular, we removed our reference to the need to publish final regulations on the Adoption and Foster Care Reporting System, clarified our discussion of Title IV-B changes in several places in the report, eliminated references to the newly available technical assistance funds, included references to ACF's proposal to consolidate planning activities, and deleted our reference to OMB review of regulations.

We did not, however, make changes in the report to reflect the provisions of the Family Preservation and Family Support Act that were not adopted because of the "Byrd rule." Instead, we make a general reference to the more recent Senate bill that proposes these same provisions.

# APPENDIX D

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## METHODOLOGY

### *DOCUMENT REVIEWS:*

We reviewed relevant literature and reports. We also analyzed current and proposed legislation, regulations, and policy statements.

### *ANALYSIS OF ACF REVIEW REPORTS:*

We first requested copies of all review reports sent to States since January 1988. We then reviewed 69 reports from ACF-conducted reviews to profile content, reporting procedures, timing of reviews and reports, and resources used in the reviews.<sup>39</sup> When we were given multiple years of one type of report for a given State, we reviewed only the most recent report. We only reviewed reports that were actually sent to States (some reports we received had not yet been sent either as draft or final reports to the State).

### *INTERVIEWS:*

#### State Officials

We conducted two day, on-site interviews with various child welfare officials in three States (Maine, Ohio, and Washington). These States were selected from the group of States in which ACF had conducted a Title IV-E review, a program review, and a Section 427 review in the past 5 years. The selection was based on getting diversity in terms of geography and size; we also wanted to visit at least one State in which child welfare services were county-based and at least one State in which the services were State-run.

We conducted telephone interviews with senior child welfare officials in ten States--one per HHS region (Connecticut, New Jersey, the District of Columbia, Florida, Wisconsin, Oklahoma, Missouri, Montana, Nevada, and Oregon). These States were selected using a weighted random selection method. Each State that was not a site-visit State was assigned a weight (W) equivalent to the number of different types of reviews (i.e., Title IV-E, Section 427, and program reviews) in the past 5 years plus half of the number of reviews beyond one for each type of review. Each State's odds of selection were equal to W divided by the sum of W for all States in the region.



### ACF Officials

We conducted telephone interviews with senior officials in each ACF regional office. We also had discussions and other detailed communication with officials in ACYF, Children's Bureau.

### Other Experts

We held discussions with other Departmental staff, Congressional staff, GAO staff, interest group representatives, and academic experts.

# APPENDIX E

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## DETAILED EVALUATION OF IMPLEMENTATION OPTIONS

DETAILED EVALUATION OF IMPLEMENTATION OPTIONS							
Option	Likely Budget Impact?	May Need Legislation?	May Need Regulation?	Likely State Reaction?	Likely Possible Timing?	Major Pros?	Major Cons?
Performance Indicators	Use new technical assistance money	No	No	Relatively positive	Pilot soon	Raises questions Focuses on results May evolve into reviews	Complicated to develop Could be ignored by States
Outcome-Based Reviews	Redirect money from other reviews	Yes	Yes	Relatively negative	Long term	Results become entire focus Allows States to argue forcefully with their legislatures	Highly controversial Long development period
Corrective Action Plans	Minimal	Yes	Yes	Strongly positive	Soon	Build partnership Improvements more likely No further weakening of weak States	Lessening of sanctions More difficult to do than straight reviews
Accreditation	More administrative funds necessary	Yes	Yes	Relatively negative	Long term	Relies on outside expertise Focuses on proactive action	Lack of direct Federal control Controversy about standards
Quality Assurance	More administrative funds necessary	No	Yes	Relatively negative	Soon	Gives States control States would be tough on themselves	Difficulty designing Could be very expensive
Title IV-B Planning Emphasis	Redirect money from other reviews	No	No	Relatively positive	Immediate	Focuses on proactive action	Need ACF training More expensive than current
Substantive Title IV-E Reviews	More review funding, may reduce disallowances	Yes	Yes	Relatively positive	Soon	Focuses on substantive issues	More complex reviews

DETAILED EVALUATION OF IMPLEMENTATION OPTIONS							
Option	Likely Budget Impact?	May Need Legislation?	May Need Regulation?	Likely State Reaction?	Likely Possible Timing?	Major Pros?	Major Cons?
Section 427 Incentives	More review funding	Yes	Yes	Relatively positive	Soon	Focuses on results Makes 427 a real incentive program	Requires new training for ACF Difficult to make a true incentive
Focus Program Reviews	Minimal	No	No	Strongly positive	Immediate	More potential to add value Should be more timely	Not as comprehensive
One State Plan	Less time reviewing plans	Yes	Yes	Strongly positive	Soon	Minimize duplication of efforts	Each plan more complex
Title IV-E - Automation	Development funding	No	Yes	Strongly negative	Long term	Simplify reviews Use state-of-art technology	Expense Loss of access to records
Title IV-E - Self-Certification	Less funding	Yes	Yes	Relatively positive	Immediate	More State autonomy	Lack of direct Federal control
Title IV-E Limited Scope	Less funding	Yes	Yes	Strongly positive	Soon	Reduce expenditures More appropriate review	No formal check on some requirements Smaller disallowances
Section 427 Reviews	Less funding	Yes	Yes	Strongly positive	Soon	Reduce review expenditures End/reduce use of troublesome process	May miss outliers
Discontinue Planning and Program Reviews	Less funding	Yes	No	Mixed	Immediate	Reduce review expenditures End use of troublesome process	Reduces Federal input on important State decisions No direct Federal TA process
Limited Background Sections	Minimal	No	No	Relatively positive	Immediate	Should streamline report-writing	Reports won't serve general information role

DETAILED EVALUATION OF IMPLEMENTATION OPTIONS

Option	Likely Budget Impact?	May Need Legislation?	May Need Regulation?	Likely State Reaction?	Likely Possible Timing?	Major Pros?	Major Cons?
Existing Mechanisms	Use new technical assistance money	No	No	Relatively positive	Immediate	No large development costs Could solve problems with these processes	Requires new training for ACF Program review design needs revamping
Non-Governmental Contracts	Use new technical assistance money	No	No	Strongly positive	Immediate	Relies on existing expertise No need to train ACF	Lack of direct Federal control Could be very expensive
Problem Areas	Use new technical assistance money	No	No	Strongly positive	Immediate	Been tested, seems effective Uses ACF and outside expertise	Somewhat expensive No easy identification of problems
Effective Practices	Minimal new funding	No	No	Strongly positive	Immediate	Could be very helpful to States Easy to implement	Some reluctance to share information
On-Line Service	Some developmental funding	No	No	Strongly positive	Soon	Encourages State dialogue Inexpensive to run	Costly to set up
Reasonable Efforts	Minimal new funding	No	No	Relatively positive	Soon	Would address significant confusion Could help ACF achieve objectives	Very controversial
Central Office Hotline	Minimal new funding	No	No	Strongly positive	Immediate	Centralize decision-making Much more clarity on standards	Regional office resistance
Program Regulations	Minimal new funding	No	Yes	Strongly positive	Soon	Clarity on standards Accountable decision process	Less flexibility
Mandatory Turnaround	Minimal new funding	No	Yes	Strongly positive	Immediate	Would improve timeliness	Might set up new appeals grounds

DETAILED EVALUATION OF IMPLEMENTATION OPTIONS							
Option	Likely Budget Impact?	May Need Legislation?	May Need Regulation?	Likely State Reaction?	Likely Possible Timing?	Major Pros?	Major Cons?
Performance Reporting	Minimal new funding	No	No	Relatively positive	Immediate	Would increase awareness	Might not improve timeliness
Streamline Decision-Making	Minimal new funding	No	No	Mixed	Soon	Might improve timeliness Clarify authority	Regional office resistance
Limit Scope of Reviews	Minimal new funding	Yes	Yes	Strongly positive	Soon	Could improve timeliness Could reduce complexity	Might allow some activities to go "un-reviewed" for some time

## APPENDIX F

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### NOTES

1. S. Rep. No. 336, 96th Cong., "Summary" 1450 (1980).
2. Small amounts of additional Federal money are available through the following programs: (1) the 1974 Child Abuse Prevention and Treatment Act funds adoption opportunities, child abuse State grants, child abuse challenge grants, child abuse discretionary programs, family violence programs, and emergency child abuse prevention services (in 1991, total funding was about \$82 million); (2) abandoned infants assistance (in 1991, funding was about \$13 million); and (3) temporary child care for children with disabilities and crisis nurseries grants (in 1991, funding was about \$11 million). See J. Rovner, "Under the Child-Welfare Banner Lies a Patchwork of Federal Programs," *Congressional Quarterly*, 30 March 1991, 798-799.
3. In 1992, Title IV-E foster care maintenance, training, and administrative expenses made up an estimated 61 percent of Federal child welfare spending; Title XX made up 21 percent; Title IV-B made up 7 percent, and Title IV-E adoption assistance maintenance, training, and administrative expenses made up 6 percent. Much of the Title XX funding and Title IV-B funding was likely spent by States on foster care maintenance payments for children not eligible for AFDC.
4. In 1992, Title IV-E administrative and training expenses made up 32 percent of the total Federal funding effort. From fiscal year 1985 to fiscal year 1992, foster care administrative expenses rose from \$143 million to \$981 million. As the Office of Inspector General pointed out in an earlier report, it is important to understand that States have been given the authority to claim many types of services as administrative expenses including pre-placement services (see Department of Health and Human Services, Office of Inspector General, *Opportunities for Cost Containment by Modifying Federal Reimbursement to States for Administrative Costs Under the Foster Care Program*, A-07-90-00274, August 1990.)
5. The Title IV-E Independent Living program is not open-ended; it is a capped entitlement program. For more information on the program, see an upcoming OIG report entitled "Independent Living Program for Foster Care Youth: Strategies for Improved ACF Management and Program Reporting" (OEI-01-93-00090).
6. Of the \$273 million of Title IV-B claims in 1992, \$132 million--less than 4 percent of all Federal funding of child welfare--was Section 427 funding.

7. On occasion, the Office of Inspector General performs audits of Title IV-E funds. These are identical in scope and content to the ACF-conducted reviews.
8. The ACF conducts initial reviews after States certify that they are eligible for 427 funding. The initial review consists solely of the Administrative Procedures Review. If the State passes that review, a case record review is conducted the following year. If the State passes this subsequent review, it receives funding for three years prior to another review (known as a triennial review). At this review, ACF conducts another case record review and receives assurances from the State about administrative procedures. The standards for the triennial review are stricter than for the subsequent review. Once a State has passed two consecutive triennial reviews, the triennial reviews are conducted every five years.
9. Administration for Children and Families, *Section 427 Review Handbook*, August 1988.
10. S. Rep. No. 118, 101st Cong., "Foster Care, Adoption Assistance, and Child Welfare Services," 103 (1990).
11. Administration for Children and Families, *Draft Child Welfare Services Program Review Manual*, December 1990.
12. Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272, 94 Stat. 517 (1980).
13. Office of Human Development Services Task Force on Foster Care and Adoption Assistance, "Report on Title IV-E/Title IV-B Programs," February 6, 1987, 3.
14. H.R. 2264, as introduced in the 103rd Congress, included the following major changes to the oversight process: elimination of Section 427 reviews, creation of new Title IV-B State plan requirements that mimicked Section 427, and establishment of a new review process for Title IV-B.
15. For example, see H. R. Rep. No. 395, 101st Cong., "No Place to Call Home: Discarded Children in America," 79-84 (1990); United States General Accounting Office, *Foster Care: Incomplete Implementation of the Reforms and Unknown Effectiveness*, GAO/PEMD-89-17, August 1989; S. Rep. No. 118, 101st Cong., "Foster Care, Adoption Assistance, and Child Welfare Services," Senate (1990); M. Allen, "Crafting a Federal Legislative Framework for Child Welfare Reform," *American Journal of Orthopsychiatry*, 61 (October 1991) 4: 610-623; and American Public Welfare Association, *Report on State Public Child Welfare Agencies' Experiences with Title IV-E and Section 427 Reviews*, Draft #3, January 25, 1993.



16. *Family Preservation Act of 1991: Hearing Before the House Subcommittee on Human Resources*, 102nd Cong., 42 (June 11 and 12, 1991).
17. S. Rep., "Foster Care, Adoption Assistance, and Child Welfare Services", 110.
18. The ACF has convened a task force to look at all of its monitoring activities, is currently working on evaluating the costs and benefits of a quality control system, and is finalizing new guidance on IV-B joint planning. Oversight issues were discussed in the prior Administration as well. See, for example, Administration for Children and Families, *Final Report of the Section 427 Revision Task Force*, Briefing Memorandum, April 16, 1990; Office of Human Development Services Task Force on Foster Care and Adoption Assistance, *Report on Title IV-E/Title IV-B Programs*; and Administration for Children and Families, *Child Welfare Monitoring Task Force: Draft Concept Papers (Revised)*, internal HHS document, July 16, 1992.
19. Department of Health and Human Services, Office of Inspector General, *Opportunities to Improve Foster Care Eligibility Determinations*, A-12-93-00022, May 1994 (draft).
20. For example, see H. R. Rep. No 395, 101st Cong., *No Place to Call Home: Discarded Children in America*, 39-44 (January 12, 1990); C. W. Dugger, "Shortage of Trained Caseworkers Imperils Young Victims of Abuse: The Cracked Shield, A Child Welfare System Stumbles," *New York Times*, December 28, 1992, A1, B8; "Wronging Children," *Washington Post*, February 10, 1991, 1; C.W. Dugger, "Troubled Children Flood Ill-Prepared Care System: Shattered Lives, When Foster Care Fails," *New York Times*, September 8, 1992, A1, B7.
21. See H. R. Report, *No Place to Call Home*, 33-36; Department of Health and Human Services, Office of Inspector General, *Crack Babies*, OEI-03-89-01540, June 1990, and Department of Health and Human Services, Office of Inspector General, *Trends in Foster Care*, OEI-01-90-00490, January 1992.
22. See H. R. Rep., *No Place to Call Home*, 33-36; and S. Evans, "Desperate Parents Cast Unruly Children Into Hands of a Burdened Government," *Washington Post*, September 30, 1991, 1.
23. Notably, officials from both the American Public Welfare Association and the Child Welfare League of America mentioned this.
24. The Institutes for Health and Human Services, Inc., *Directory of Child Welfare Class Action Lawsuits*, October 1, 1992.
25. Many of these have resulted in States settling consent decrees out of court. The consent decrees often have resulted in dramatic changes in State procedures and laws. See The Institutes for Health and Human Services, Inc.,

*Directory of Child Welfare Class Action Lawsuits*, October 1, 1992 and National Center for Youth Law, *Foster Care Reform: Litigation Docket*, 1989.

26. These are the objectives ACF has defined for the reviews.
27. Most changes such as these would require revisions to existing statute.
28. APWA, *Report on Experiences with Title IV-E and Section 427 Reviews*.
29. Our data show that in one State, over \$1 million, or almost 6 percent of the Federal Title IV-E foster care funding, was disallowed on a Title IV-E review solely for reasons that appear to be outside of the control of the child welfare agency; in another State, over 10 percent (more than \$500,000) was disallowed. These reasons (as stated in the review reports) were: "court order did not indicate reasonable efforts," "court order did not indicate contrary to the welfare of the child," and "no judicial determination done within 180 days."
30. OIG, *Opportunities to Improve Foster Care Eligibility Determinations*, May 1994 (draft).
31. Of the small number of reviews from which we were able to gather this information, this review involved the most people. We suspect that in other States, reviews involved large numbers approaching those in this example.
32. Four of the 10 regions and 4 of the 13 States responded "No" or "Don't know" to the question about whether Title IV-E reviews are meeting this objective.
33. S. Bill No. 1886, 103rd Cong., Social Security Act Amendments of 1993, introduced on November 17, 1993 by Senator Daniel Patrick Moynihan.
34. This method was used quite successfully by the Public Health Service. The PHS, in response to a recommendation we made, funded the Federation of State Medical Boards to develop performance indicators for State medical boards. The system the Federation developed has gained wide acceptance and is serving very useful informational purposes for the States (and for PHS).
35. The original legislation upon which the OBRA 93 family preservation and family support provisions were based included a provision to put in place corrective action plans.
36. The new Title IV-B Subpart 2 includes funding for grants to State judiciaries to assess and improve handling of proceedings related to foster care and adoption assistance.
37. OIG, *Opportunities to Improve Foster Care Eligibility Determinations*, May 1994 (draft).

38. The initial legislation that resulted in the OBRA 93 child welfare provisions (as well as the conference report on OBRA 93) included a requirement that the Department conduct a study on reasonable efforts.
39. In addition, we reviewed the content of audits conducted by OIG Office of Audit Services in five States. The Office of Audit Services conducts audits of State programs that are very similar to the Title IV-E reviews conducted by ACF. The OIG reports were not included in our analysis of the timeliness of reporting or the resources used in reporting. They did, however, contribute to our analysis of and understanding of the content of review reports.