

Financial Incentives

Among the most bizarre criticisms of family preservation is the allegation that it dominates federal funding priorities.

These attacks apparently are linked to passage of the Family Preservation and Family Support Act of 1993. That law was *wrongly* characterized by critics, and some media, as providing \$1 billion for family preservation.

The \$1 billion was spread over five years -- and it was *not* just for family preservation. Far from it.

The law allows states to spend the money they get through this law on a huge array of services -- even foster care and adoption. A state can, if it so chooses, receive its entire allocation under this law and spend not one dime on family preservation.¹ The so-called Adoption and Safe Families Act (ASFA) -- the 1997 law effectively abolishing "reasonable efforts" -- continues the Family Preservation and Family Support Act under a new name, "Promoting Safe and Stable Families," but it dilutes the act still further by allowing even more of the money to be spent on adoption.²

But even if all the money had been earmarked for family preservation, it still would have been dwarfed by the money available for what still is the best-funded child welfare "service" -- foster care.

Compared to the gigantic, open-ended entitlement for foster care, \$1 billion spread over five years is barely noticeable.

Before the 1993 law was enacted, the most conservative estimate indicated that the federal government spent at least eight times more on foster care than on services to keep children out of foster care.³ Because foster care is an "entitlement," that is, for every eligible child states automatically get partial reimbursement, the ratio has barely improved.

Indeed, in Fiscal Year 2010 the federal government is expected to spend at least seven dollars on foster care and four more dollars on adoption for every dollar spent to prevent foster care or speed reunification. (That's a very conservative estimate, since some of the money in the "prevention" funding streams actually goes to foster care as well.)⁴

States also can use other federal funding streams for a wide variety of social services, including child welfare. Unfortunately, there is evidence that states actually are using one of these funding streams to take dollars out

of the pockets of impoverished families in order to pay for keeping their children in foster care.

The program is Temporary Assistance for Needy Families (TANF).

This program is the successor to Aid to Families with Dependent Children (AFDC). As such, it is specifically intended to provide support for impoverished families, either through direct assistance or programs to help them achieve self-sufficiency.

But in 2002, states used at least \$1.2 billion in TANF money for foster care.⁵

Some of this money was, in fact, well spent -- it went to kinship care programs to help extended family members care for their children. But it appears that hundreds of millions of dollars in TANF money is being spent on foster care with strangers.

For example, in Connecticut alone, more than \$100 million in TANF funds has been diverted from providing low-income families with day care subsidies into foster care with strangers, and even child abuse investigations.

In other words, the money that could help an impoverished single parent keep her job and avoid a "lack of supervision" charge instead has been diverted to investigating that parent, taking away her children, and paying middle-class foster parents to take care of them.⁶

While this is perfectly legal, it is an unconscionable transfer of funds from America's poor to subsidize child welfare agencies and pay middle-class strangers caring for foster children.

The funding bias in favor of foster care is one of the main reasons so many children are needlessly taken from their parents.

Although family preservation is less expensive in total dollars, because of federal and state funding formulas, foster care may cost less for a state or locality making a placement. In Pennsylvania, for example, for every dollar a county spends on foster care, it gets an average of 85 cents back from the state and federal governments.⁷

The National Commission on Children found that children often are removed from their families "prematurely or unnecessarily" because federal aid formulas give states "a strong financial incentive" to do so rather than provide services to keep families together.⁸

(over)

Financial Incentives (continued)

This does not mean that local governments "make money" on foster care. It does mean that foster care can cost them less than programs to keep children out of foster care.

And some *private* agencies do indeed make money on foster care. These agencies are paid for every day they keep a child in foster care. If they return a child home -- or get a child adopted -- the reimbursement stops. That creates a strong incentive to let children languish in foster care.

Since adoption generally takes longer than reunification, however, there also is an incentive for private agencies to press to change the "goal" in a child's "case plan" from reunification to adoption.

In 1997, having realized the harm done by the foster care panic -- and under pressure from the Illinois Branch of the American Civil Liberties Union -- Illinois moved to change direction by changing financial incentives. Illinois now pays for permanence, rewarding private agencies financially for returning children to their own homes and for adoptions. The agencies are penalized for allowing children to languish in foster care.

As a result, the Illinois foster care population fell from more than 50,000 in 1997⁹ to 15,282 as of November 2009,¹⁰ and as the foster care population has declined, child safety has improved.¹¹

Unfortunately, at the federal level, the financial incentive to place children is increased by two other laws. Under the 1996 federal welfare law, if a family is forced into poverty, no matter what the reason, they may not be able to

get public assistance to help care for their own children (depending on how many years they have received such assistance), but as soon as their children are taken away, the foster care system may receive a never-ending subsidy to help foster parents cover the costs of caring for those children.

The second law, ASFA, includes bounties to states of up to \$8,000 or more per child for every adoption they finalize over a baseline number. The bounty is paid when the adoption is finalized, so there is an incentive to place a child with little concern about whether the placement really will last. Indeed, if the adoption "disrupts" and the child is placed again, the state can collect another bounty.

Thus, states and private agencies now have financial incentives to keep children in foster care and financial incentives to place them for adoption -- but no financial incentives to keep them in their own homes or return them there.

"What you have now is an incentive to initially remove the child and an incentive to adopt them out," says David Sanders, head of the Los Angeles County Department of Children and Family Services, one of the nation's largest child welfare systems. "I think when you put these two together, there is a problem"¹²

As for parents, with these new laws in place, the federal government will help foster parents care for children, the federal government will help some adoptive parents care for children, and the federal government will help institutions care for children. About the only parents the federal government won't help indefinitely are birth parents.

Updated, January 16, 2010

1. Martha Matthews, "HHS Issues Family Preservation & Support Program Instruction," *Youth Law News* 15 no.2 (March-April 1994) p.3. See also, Marc Katz, "New Legislation Pours \$1 billion Into Family Preservation," *Youth Law News* 14, no.5 (September-October, 1993) p.8. //2. "Adoption and Safe Families Act of 1997, Sec. 305. //3. U.S. House of Representatives, Select Committee on Children, Youth, and Families, *No Place to Call Home: Discarded Children in America* (Washington DC: Jan. 12, 1990) p.163. //4. The Child Welfare League of America estimates that states will spend \$4.7 billion in federal funds reserved exclusively for foster care, and at least another \$2.46 billion on funds reserved exclusively for adoption. States spent an estimated \$660 million from child welfare funding streams that can be used for prevention and family preservation. But these funds can be used for many other purposes as well. Child Welfare League of America, *The President's FY 2010 Budget and Children*, available online at www.cwla.org/advocacy/FY2010_PresidentBudget_analysis.pdf //5. Cynthia Andrews Scarcella et. al, *The Cost of Protecting Vulnerable Children IV* (Washington DC, The Urban Institute) December 20, 2004, available online at http://www.urban.org/UploadedPDF/411115_VulnerableChildrenIV.pdf //6. Colin Poitras, "Child Care Funds Lacking," *Hartford Courant*, March 25, 2006. //7. Barbara White Stack, "Relatives should get foster care pay, suit says," *Pittsburgh Post-Gazette*, Aug. 16, 2000, p.1. //8. National Commission on Children, *Beyond Rhetoric: A New American Agenda for Children and Families*, (Washington, DC: May, 1991) p.290. //9. Illinois Department of Children and Family Services, *Children in Substitute Care: 1985 to Present*, available online at <http://www.state.il.us/dcfs/foster/index.shtml> //10. Illinois Department of Children and Family Services, Division of Quality Assurance, *Executive Statistical Summary*, November, 2009, available online at <http://www.state.il.us/DCFS/docs/execstat.pdf> //11. Illinois Department of Children and Family Services, *Signs of Progress in Child Welfare Reform* available online at <http://www.state.il.us/dcfs/docs/SignsJan03.pdf> //12. Troy Anderson, "Government Bonuses Accelerate Adoptions," *Daily News of Los Angeles*, December 8, 2003.