

## A Child's Journey Through the Child Welfare System

This paper describes the typical progression a child makes through a state's child welfare system.\* Each state's child welfare agency<sup>1</sup> is responsible for ensuring the safety and well-being of children. Child welfare systems have several chief components:

- Foster care – full-time substitute care for children removed from their parents or guardians and for whom the state has responsibility. Foster care provides food and housing to meet the physical needs of children who are removed from their homes.
  - Child protective services (CPS) – generally a division within the child welfare agency that administers a more narrow set of services, such as receiving and responding to child abuse and neglect allegations and providing initial services to stabilize a family.
  - Juvenile and family courts – courts with specific jurisdiction over child maltreatment and child protection cases including foster care and adoption cases. In jurisdictions without a designated family court, general trial courts hear child welfare cases along with other civil and criminal matters.
  - Other child welfare services – in combination with the above, these services address the complex family problems associated with child abuse and neglect. They include family preservation, family reunification, adoption, guardianship, and independent living.
- ✓ While 542,000 children were in foster care on September 30, 2001, 805,000 spent some time in care over the course of that year.<sup>2</sup>
- ✓ Children in care in 2001 had been in foster care for an average of 33 months. More than 17 percent (91,217) of the children had been in care for 5 or more years.<sup>3</sup>

Once a child is known to the child welfare agency, he and his family become subject to a series of decisions made by judges, caseworkers, legal representatives, and others, all of whom have an important role to play. A child may encounter dozens of other new adults including foster parents, counselors, and doctors.

Most children (60%) enter foster care when removed from their homes by a child protective agency because of abuse and/or neglect. Others (17%) enter care because of the absence of their parents, resulting from illness, death, disability, or other problems. Some children enter care because of delinquent behavior (10%) or because they have committed a juvenile status offense (5%), such as running away or truancy. Roughly 5

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\* Throughout the paper, the following bullets are used: ✓ for statistics; ⚖ for federal law and regulations; and † for a child's experience.

percent of children enter care because of a disability.<sup>4</sup> For many, it represents their only access to disability services, for example, mental health care for a child with severe emotional disturbance. In these rare instances, in states that allow such placements, a child is placed in foster care voluntarily at the request of his parents.

Foster care is intended to provide a safe temporary home to a child until he can be reunited safely with his parent(s) or adopted. However, being removed from home and placed in foster care is traumatic for a child, and the period of time he may spend in care can be filled with uncertainty and change.<sup>5</sup>

A child in foster care is affected by a myriad of decisions established by federal and state laws designed to help him. At each decision point, action or inaction can profoundly influence the child's current circumstances and future prospects. The discussion that follows highlights typical decision points on a child's journey through foster care. Although the format is based on federal and common state law and practice, nevertheless it is only a model. Laws vary across states, as does the capacity and practices of child welfare agencies and courts to manage their caseloads. These factors can and often do create delays that complicate a child's journey through the child welfare system and often extend his time there.

**DECISION POINT - Abuse or neglect is reported and the CPS agency responds.**

The child's journey through foster care usually begins when a mandated reporter<sup>6</sup> or concerned citizen makes a report of abuse or neglect to a state agency. For example, a doctor delivers a baby who has drugs in his system; a neighbor notices bruises on a child; a toddler is found abandoned in a public place; or a teacher notices a student who is unclean, unfed or severely ill.

☞ Child abuse and neglect, or maltreatment, are defined in both federal and state law. Federal law provides a foundation for states by identifying a minimum set of acts or behaviors that define physical abuse, neglect, and sexual abuse. The Federal Child Abuse Prevention and Treatment Act defines child abuse and neglect, at a minimum, as "any recent act or failure on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act which presents an imminent risk of serious harm" to a person under age 18.<sup>7</sup> States can and do expand on or clarify definitions in a variety of ways that are particular to local needs. Although any of the forms of child maltreatment may be found separately, they often occur in combination.

The U.S. Department of Health and Human Services (HHS) estimates that in 2001, CPS agencies received nearly three million referrals of maltreatment involving five million children. Approximately 903,000 of these cases were substantiated after investigation.<sup>8</sup>

The following types of abuse and neglect occurred (some in combination with others):

Type of Abuse	Percentage
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Neglect	59.2%
Physical Abuse	18.6%
Sexual Abuse	9.6%
Emotional/Psychological maltreatment	6.8%
Other (abandonment, congenital drug addiction)	19.5% <sup>9</sup>

The ages of the victims ranged as follows:

Age	Percentage
Birth to 3 years	27.7%
4-7	24.1%
8-11	22.8%
12-15	19.5%
16-21 or unknown	6% <sup>10</sup>

More than half (56.5%) of substantiated reports were made by professionals, including teachers, law enforcement officers, and physicians. The remaining 43.5 percent were made by family members, neighbors, and other members of the community.<sup>11</sup>

The majority of the victims were maltreated by a parent (birth, adoptive or step). The breakdown is as follows:

Relationship to the Child	Percentage
Mothers (acting alone or with a non-parent)	46.9%
Fathers (acting alone or with a non-parent)	18.7%
Mother and Father	19.3%
Non-parent	11.9%
Unknown	3.1% <sup>12</sup>

In 2001, an estimated 1,300 children died from abuse or neglect. Eighteen of these deaths, (1.5%) occurred while a child was under the custody or supervision of the child welfare agency.<sup>13</sup>

Once a report of maltreatment has been made, the CPS agency investigates whether abuse or neglect has occurred and assesses the risks to the child.

## **DECISION POINT**

**The CPS agency finds that the allegations of abuse and neglect are unfounded and the case is closed.**

**or**

**The CPS agency finds evidence that the child is at risk for subsequent abuse or neglect and conducts an assessment to determine whether the child can remain safely at home with supervision or support services.**

The assessment may include a visit to the family home and interviews with the family and persons outside the family. The family may help identify services that may be needed to better care for their child, such as parenting skills training or addiction services.<sup>14</sup>

- ✓ The majority of children entered foster care because of neglect, often the result of inadequate housing, poor child care, or insufficient food or medical care.
- ✓ A substantial percentage of parents with children in foster care have substance abuse treatment needs.<sup>15</sup>

**DECISION POINT – The CPS agency petitions the court recommending the removal of the child from his home under the supervision of the child welfare agency. This petition initiates a series of judicial hearings.**

If the CPS assessment indicates the child is at high-risk for subsequent abuse or neglect, the CPS agency conducts an investigation and requests a court order to remove the child from the home. Generally, in emergency situations, the agency will remove the child and place him in emergency or temporary foster care before receiving the court order.

**DECISION POINT – Protective hearing: the court determines initial placement.**

An emergency custody hearing, or protective hearing, will be held for the court to first determine whether the child has been abused or neglected. If the judge determines that abuse or neglect has occurred, the case then proceeds to an adjudicatory and dispositional hearing, where the judge will decide, based in part on the child welfare agency's recommendation, to do one of the following:

- (1) Send the child home without services;
- (2) Send the child home with supervision and support services; or
- (3) Remove the child from his home.

**This same set of options will be considered at each subsequent hearing.**

**DECISION POINT – Adjudicatory and dispositional hearing(s): the court determines that the child must be removed and approves an initial placement and reunification plan.**

Once the child is removed from his home, he and his parents become formally involved with the juvenile or dependency court system, and the child is considered in state custody and generally a ward or dependent of the court. The child and his family are assigned a case worker from the child welfare agency.

The child's case worker develops a case plan detailing:

- (1) The types of services that the child and his family will receive, such as parenting classes, mental health or substance abuse treatment, and family counseling;
- (2) Reunification goals, including visitation schedules and a target date for a child's return home; and
- (3) Concurrent plans for an alternative permanent placement options should reunification goals not be met.

The court reviews and may modify the recommended case plan.

- ☞ Federal regulations require that the child's case plan describe how the state will achieve a safe placement for the child in the least restrictive, most family-like setting in close proximity to the child's parents. The case plan must also describe how the placement is consistent with the child's best interests and special needs.<sup>16</sup>
- ✓ Many jurisdictions are experimenting with innovative approaches to develop effective case plans and facilitate safe reunification. Such approaches include mediation, family group conferencing, and co-location of services such as substance abuse assessment in the court.
- ✓ Before a State may receive federal reimbursement for the costs resulting from supporting a child after removal from his home into foster care, a judge must determine that reasonable efforts have been made to keep the family together by providing such services as parenting classes, substance abuse treatment, or subsidized child care.<sup>17</sup> However, federal law does not require States to pursue reasonable efforts if a parent has committed specific types of felonies, or subjected the child to aggravated circumstances, such as abandonment, torture, or sexual abuse.<sup>18</sup>

In 2001, the case goals of 541,998 children in state custody were:

<b>Case Goal</b>	<b>Percentage (number)</b>
Reunify with Parent(s) or Principal Caretaker(s)	44% (241,051)
Adoption	22% (116,653)
Case Plan Goal Not Yet Established	11% (62,014)
Long Term Foster Care	8% (45,792)
Emancipation	6% (32,309)
Live with Other Relative(s)	5% (26,555)
Guardianship	3% (17,624) <sup>19</sup>

In 2001, the placement settings for children in state custody were:

<b>Placement Setting</b>	<b>Percentage (number)</b>
Foster Family Home	48% (260,384)
Relative foster home	24% (130,869)
Institution	10% (56,509)
Group Home	8% (43,084)
Pre-Adoptive Home	4% (20,289)

Trial Home Visit	3% (16,685)
Runaway	2% (9,112)
Supervised Independent Living	1% (5,068) <sup>20</sup>

More than 20 percent of children in foster care will move at least three times and in some cases seven or more times.<sup>21</sup> Children move for many reasons, including attrition and lack of training or support for foster families, lack of resources to address a child's special needs, or because the child's behavior may be difficult for some foster parents to manage.

- † If the child is removed from his home, he is separated from his parents and may be separated from his siblings. He will meet new temporary “parents” and adjust to their lifestyle and house rules. Foster parents may have their own children or other foster children in their homes. The child may have to attend a new school, leaving old friends behind and adjusting to a new teacher and new classmates as well as new rules. The child will have a caseworker assigned to him. Ideally the caseworker will visit the child at least once a month. The emotional adjustments will differ for children placed with relatives, or placed in their own neighborhood. The child will have to make these adjustments each time he is moved.

**DECISION POINT – The child is placed in the home of a relative.**

- ☞ Federal law recognizes a preference for placement with relatives.<sup>22</sup> However, the regulations clarify that health and safety are the paramount considerations when any placement decision is made regarding a child in foster care, including care with a relative.<sup>23</sup>

- ✓ Generally, relatives do not receive foster care payments unless they are licensed foster care providers.

**DECISION POINT - The child is placed in a non-relative foster family home.**

Although the total number of licensed family foster homes in the United States is not known, in 1998, 38 states reported a total of 133,503 homes.<sup>24</sup> Unfortunately, turnover among foster parents is high; 30 to 50 percent leave the system every year.<sup>25</sup>

Foster parents receive stipends to cover room and board, child care, and clothing. They may also receive Medicaid coverage for the children in their care.

**DECISION POINT - The child is placed in a residential facility or in a group home.**

The child may be placed in therapeutic foster care, residential child care, or residential psychiatric care if he has emotional, behavioral, physical or medical needs and requires a higher level of supervision and treatment. A child may be placed in group home care because of a shortage of foster family homes. Group home care is more frequently used for older children.

- ☞ A group home is a licensed or approved home providing 24-hour care for children in a small group setting that generally has from 7 to 12 children.<sup>26</sup>
- ☞ An institution is a child care facility operated by a public or private child welfare agency and providing 24-hour care and/or treatment for children who require separation from their own homes and group living experiences, i.e. child care institutions, residential treatment facilities, and maternity homes.<sup>27</sup>
- ☞ Federal child welfare funds cannot be used to support children in public facilities that serve more than 25 children or used to maintain children in facilities that are operated primarily for the detention of delinquent youth.<sup>28</sup>

**DECISION POINT - The court reviews progress every six months and holds a permanency hearing after 12 months.**

Periodic reviews are held in the court or reported to the court.

- ☞ Federal law requires states to review a child’s case at least every six months after placement in foster care to determine whether the placement is still necessary and appropriate, whether the case plan is being properly and adequately followed, and whether progress has been made toward reunifying the family. The case review must also set a target date for the child’s return home, adoption, or other permanent placement.<sup>29</sup>

Permanency planning hearings are always held in court.

- ☞ Federal law requires states to hold a permanency planning hearing for each child in foster care within 12 months of initial placement, or after a determination that reasonable efforts to reunite are not required.<sup>30</sup> Some states require this hearing sooner. Foster parents, pre-adoptive parents, and relative caregivers must be given notice and an opportunity to be heard at case reviews and permanency hearings.

Some advocates believe that a child should not remain in foster care longer than 12 months. Other advocates believe that this is too short a period to address the complex and multiple needs of the family, particularly families with substance abuse or mental health needs.

A judge may choose from among several permanency options for the child. In 2001, 263,000 children exited foster care in the following ways:

<b>Outcomes for Children Exiting Foster Care</b>	<b>Percentage (number)</b>
Reunification with Parent/Primary Caretaker	57% (148,606)
Living with Other Relative(s)	10% (26,084)
Adoption	18% (46,668)
Guardianship	3% (8,969)
Emancipation	7% (19,008)

Transfer to Another Agency	3% (7,918)
Runaway	2% (5,219)
Death of Child <sup>31</sup>	less than 1% (528) <sup>32</sup>

**DECISION POINT – The child is reunified with his birth family.**

If the parents are successful with the court-ordered treatment plan, the child is reunited with his parents, and the case is closed.

- ✓ In 2001, more than 57 percent (148,606) of children in out-of-home care were reunited with their families.<sup>33</sup>
- ✓ However, other studies have noted that approximately 33 percent of children who were reunified with their families re-entered foster care within three years.<sup>34</sup> And, approximately 17 percent of children who entered foster care had been in foster care before.<sup>35</sup>

**DECISION POINT – The birth family does not complete the court-ordered reunification plan. The child welfare agency petitions the court for the termination of parental rights (TPR).**

If a parent fails to comply with the reunification plan, the child welfare agency will petition the court to terminate the parents' rights to the child. At any point during the court process, a parent may seek to voluntarily relinquish their parental rights.<sup>36</sup> When the parents' rights are terminated, a permanent plan for the child will be created.<sup>37</sup>

- ☞ Federal law requires states to initiate TPR proceedings for (1) children who have been in foster care for 15 of the most recent 22 months, (2) infants determined to be abandoned, or (3) cases in which a parent has killed another of his/her children, or (4) certain other egregious situations. States may opt not to initiate TPR if (1) the child is in a relative's care, (2) the child welfare agency has documented a compelling reason that TPR would not be in the child's best interest, or (3) the state has not provided necessary services to the family.<sup>38</sup>
- ✓ In 2001, more than 65,000 children's living parents had their parental rights terminated.<sup>39</sup>
- ☞ Federal law requires that the permanency plan document the steps taken to place the child and finalize the adoption or legal guardianship and document child specific recruitment efforts taken to find an adoptive family or legal guardian for a child.<sup>40</sup>
- ☞ Federal regulations direct states to concurrently begin to seek and approve a qualified adoptive family for the child whenever a state initiates TPR proceedings.<sup>41</sup>

**DECISION POINT - The child is placed with an adoptive family and the court holds an adoption hearing to finalize the adoption.**

Some children will leave foster care through adoption.

- ✓ In 2001, 51,000 children were adopted.<sup>42</sup> Nearly 59 percent were adopted by their foster family and nearly 24 percent were adopted by a relative.<sup>43</sup>
- ✚ Because children adopted from foster care may have been abused, neglected, or may have lived in multiple homes, the transition to an adoptive home can be difficult. Some states are beginning to explore ways to offer post-adoption services, such as respite care, to ensure the adoptions stay intact.
- ✓ In 2001, more than 126,000 children in foster care were considered waiting to be adopted because they have the goal of adoption or because of TPR.<sup>44</sup> These children had been in foster care for an average of more than 3½ years, and their average age was eight.<sup>45</sup>

**DECISION POINT – The child is placed with a legal guardian, often a relative.**

Some children will leave foster care through placement in the custody of a guardian. The guardianship can be granted to relatives, foster parents, or another adult who has a relationship with the child.<sup>46</sup> Guardianship is not as legally secure as adoption. However, it does provide a measure of permanency and stability without requiring the termination of parental rights.<sup>47</sup>

- ✚ Federal law defines legal guardianship as a judicially-created relationship between child and caregiver intended to be permanent and self-sustaining. The following parental rights with respect to the child are transferred to the caretaker: protection, education, care and control, custody, and decision-making.<sup>48</sup>
- ✓ Subsidized legal guardianships are a means by which some states provide relative (and in some states non-relative) foster parents with financial assistance after they have obtained legal guardianship of the child and the child has exited the formal child welfare system. Subsidized guardianships can provide an alternative form of support for children whose relatives have chosen not to adopt.<sup>49</sup> The federal government does not provide States reimbursement for costs associated with subsidized legal guardianship payments.

**DECISION POINT – The child reaches age 18 with no permanent home.**

Some children will reach 18 and leave foster care without being reunited with their families, adopted, or placed in another permanent home. In these cases, the child welfare agency may provide basic living skills training, housing assistance, and educational opportunities through federally funded independent living programs.

- ✓ In 2001, approximately 19,000 youth left foster care when they reached the age of 18 (or 21, in some cases).<sup>50</sup>

¶ Studies have found significantly lower levels of education, higher rates of unemployment, and higher rates of homelessness for adults who spent time in foster care as children.<sup>51</sup> For example, a study by Westat, Inc. reported that only 54 percent of young adults who grew up in foster care had completed high school, 40 percent continued to rely on public support in some way (were receiving public assistance, incarcerated, or receiving Medicaid) and 25 percent had been homeless for some period.<sup>52</sup> Other studies indicate that a significant percentage of the homeless population in many cities were adults who once had been foster children.<sup>53</sup>

As this paper indicates, the rate at which a child progresses through the foster care system, and the nature of his experience there, depends on many factors. These include federal and state financing, timelines, and legal provisions: good and timely decisions; the availability of services for birth and adoptive families; and the availability of licensed foster homes willing to care for children. Many of these factors are interrelated. But each can contribute to the length and quality of a child's time in foster care.

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<sup>1</sup>Public child welfare agencies are often called by different names such as the Department of Human Services (DHS), Department of Health and Social Services (DHSS), Department of Children and Families (DCF), or the Department of Social Services (DSS).

<sup>2</sup> U.S. Department of Health and Human Services, Children's Bureau, *The AFCARS Report #8* (March 2003). Available online at [www.acf.dhhs.gov/programs/cb/publications/afcars/report8.htm](http://www.acf.dhhs.gov/programs/cb/publications/afcars/report8.htm).

<sup>3</sup> Ibid.

<sup>4</sup> Karen Spar, Specialist in Social Legislation, Domestic Social Policy Division, Congressional Research Library, Library of Congress, Testimony before the Subcommittee on Human Resources, July 20, 1999. The figures in this paragraph represent Fiscal Year 1994 data.

<sup>5</sup> Ibid.

<sup>6</sup> State laws identify certain professionals who are mandated to report suspected abuse. They generally include medical professionals, teachers, day care workers, photo lab developers, and law enforcement.

<sup>7</sup> 42 U.S.C. 5106g.

<sup>8</sup> U.S. Department of Health and Human Services, Administration on Children, Youth and Families, *Child Maltreatment 2001*, p.21 (Washington, DC: U.S. Government Printing Office, 2003).

<sup>9</sup> Ibid, 21. The percentages total more than 100 percent of victims because children may have been victims of more than one type of maltreatment.

<sup>10</sup> Ibid, p. 23.

<sup>11</sup> Ibid, pp. 3 & 7.

<sup>12</sup> Ibid, pp. 43 & 45.

<sup>13</sup> Ibid, pp. 51 & 55.

<sup>14</sup> The Oklahoma Department of Human Services, *The Child Welfare Journey*. Available online at <http://www.okdhs.org/cfsd/howtos/cw/journey.htm>.

<sup>15</sup> Child Welfare League of America, Behavioral Health Division, *Alcohol and Other Drugs*. Available online at <http://www.cwla.org/programs/bhd/aod.htm>.

<sup>16</sup> 42 U.S.C. 675(5).

<sup>17</sup> U.S. Department of Health and Human Services, National Clearinghouse on Child Abuse and Neglect Information, *Overview of the Civil Child Protective Court Process*. Available online at [www.calib.com/nccanch/pubs/usermanuals/courts/protect.cfm](http://www.calib.com/nccanch/pubs/usermanuals/courts/protect.cfm).

<sup>18</sup> 42 U.S.C. 671(a)(15)(D).

<sup>19</sup> *The AFCARS Report #8*.

<sup>20</sup> Ibid.

<sup>21</sup> Kathy Barbell and Madelyn Freundlich, *Foster Care Today* (Casey Family Programs, Washington, DC, 2001), pp. 3-4. These figures were based on 1994 data from the U.S. House of Representatives, 2000.

<sup>22</sup> 42 U.S.C. 671(a)(18).

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- <sup>23</sup> Children's Defense Fund, Child Welfare and Mental Health Division, *The Adoption and Safe Families Act (ASFA) Regulations and Kinship Care Families - Frequently Asked Questions* (Spring 2000) and *Federal Register, Vol.65, No. 16*, (January 25, 2000), pp. 4032-4033.
- <sup>24</sup> U.S. Department of Health and Human Services, Administration for Children & Families, National Clearinghouse on Child Abuse and Neglect Information, *Foster Care National Statistics April 2001*.
- <sup>25</sup> University of Tennessee Family Foster Care Project, *Foster Family Forum*, Issue 1. (July 2002).
- <sup>26</sup> U.S. Department of Health and Human Services, Administration on Children, Youth and Families, *Child Maltreatment 1999: Annual Report* (Washington, DC: U.S. Government Printing Office, 2001). Some states may include settings with fewer than seven children as group homes.
- <sup>27</sup> Ibid.
- <sup>28</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Administration for Children, Youth and Families, *Program Instruction, ACYF-PI-89-09* (October 1989).
- <sup>29</sup> *Overview of the Civil Child Protective Court Process*.
- <sup>30</sup> 42 U.S.C. 675 (1)(5)(C).
- <sup>31</sup> These deaths resulted from all causes including accidental and natural. Only 18 resulted from abuse.
- <sup>32</sup> *The AFCARS Report #8*.
- <sup>33</sup> Ibid.
- <sup>34</sup> U.S. General Accounting Office, *FOSTER CARE Recent Legislation Helps States Focus on Finding Permanent Homes for Children , but Long-Standing Barriers Remain* (GAC-02-585) (Washington, DC: U.S. Government Printing Office, 2002), p. 10.
- <sup>35</sup> *Foster Care National Statistics April 2001* (2000b).
- <sup>36</sup> *The Child Welfare Journey*.
- <sup>37</sup> Ibid.
- <sup>38</sup> 42 U.S.C. 675(1)(5)(E). In the case of an abandoned child, regulations require States to initiate TPR within 60 days of a court determination of abandonment and in the case of a child whose parent has been convicted of a felony specified in the law 60 days of a court determination that reasonable efforts to reunite are not required.
- <sup>39</sup> *The AFCARS Report #8*.
- <sup>40</sup> 42 U.S.C. 675 (1)(E).
- <sup>41</sup> 42 U.S.C. 675 (5)(E).
- <sup>42</sup> *The AFCARS Report #8*. This figure is based on the most recent revisions to AFCARS, which only include adoption outcomes. This figure differs from the figure presented in the table showing outcomes for children exiting foster care. That figure is based on preliminary data which will be revised once all the outcomes are updated.
- <sup>43</sup> Ibid.
- <sup>44</sup> Ibid.
- <sup>45</sup> Ibid.
- <sup>46</sup> *The Child Welfare Journey*.
- <sup>47</sup> Steve Christian, *A Place to Call Home Adoption and Guardianship for Children in Foster Care*, p.28 (National Conference of State Legislatures, 2000)
- <sup>48</sup> 42 U.S.C. 675.
- <sup>49</sup> *The Adoption and Safe Families Act (ASFA) Regulations and Kinship Care Families - Frequently Asked Questions*.
- <sup>50</sup> *The AFCARS Report #8*.
- <sup>51</sup> State of Tennessee, Comptroller of the Treasury, *Foster Care Independent Living Programs* (1998).
- <sup>52</sup> *1994 Green Book* (Washington, DC: U.S. Government Printing Office, 1994).
- <sup>53</sup> National Alliance to End Homelessness. *Web of Failure: The Relationship between Foster Care and Homelessness* (1995). Available online at <http://www.endhomelessness.org/pub/fostercare/webrept.htm>.

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