



Testimony

Before the Subcommittee on Income
Security and Family Support, Committee on
Ways and Means, House of Representatives

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**AFRICAN AMERICAN
CHILDREN IN FOSTER
CARE**

**HHS and Congressional
Actions Could Help Reduce
Proportion in Care**

Statement of Kay Brown, Director
Education, Workforce, and Income Security





Highlights of [GAO-08-1064T](#), a testimony before the Subcommittee on Income Security and Family Support, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

A significantly greater proportion of African American children are in foster care than children of other races and ethnicities relative to their share of the general population. Given this situation, GAO was asked to analyze the (1) major factors influencing their proportion in foster care, (2) strategies states and localities have implemented that appear promising, and (3) ways in which federal policies may have influenced the proportion of African American children in foster care. This testimony is based on a GAO report issued in July 2007 (GAO-07-816), which included a nationwide survey; a review of research and policies; state site visits; analyses of child welfare data; and interviews with researchers, HHS officials, and other experts. It includes updates where possible.

What GAO Recommends

In our July 2007 report, GAO recommended that HHS further assist states in addressing disproportionality. HHS noted that GAO's recommendation was consistent with its efforts to provide technical assistance to states, but it has not addressed the specific actions. GAO continues to believe that further assistance is important for helping states address disproportionality. GAO also suggested that Congress consider amending current law to allow subsidies for legal guardianships. HHS believes its proposal for restructuring child welfare funding, first offered in 2004, would give states the option to do this, but the viability of this proposal is uncertain.

To view the full product, including the scope and methodology, click on [GAO-08-1064T](#). For more information, contact Kay Brown at (202) 512-7215 or brownke@gao.gov.

AFRICAN AMERICAN CHILDREN IN FOSTER CARE

HHS and Congressional Actions Could Help Reduce Proportion in Care

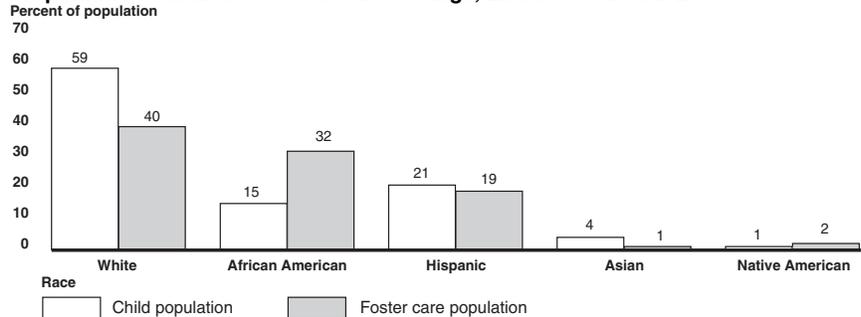
What GAO Found

According to our survey results, key factors contributing to the proportion of African American children in foster care included a higher rate of poverty, challenges in accessing support services, racial bias and distrust, and difficulties in finding appropriate adoptive homes. Families living in poverty have greater difficulty accessing housing, mental health, and other support services needed to keep families stable and children safely at home. Bias or cultural misunderstandings and distrust between child welfare decision makers and the families they serve also contribute to children's removal from their homes into foster care. African American children also stay in foster care longer because of difficulties in recruiting adoptive parents, the lack of services for parents trying to reunify with their children, and a greater reliance on relatives to provide foster care who may be unwilling to terminate the parental rights of the child's parent—as required in adoption—or who need the financial subsidy they receive while the child is in foster care.

Most states we surveyed reported using various strategies intended to address these issues, such as building community supports, providing cultural competency training for caseworkers, and broadening the search for relatives to care for children. Researchers and officials also stressed the importance of analyzing data to address the proportion of African American children in care in order to better understand the issue and devise strategies to address it. HHS provides information and technical assistance, but states reported that they had limited capacity to analyze their own data and formulate strategies to address disproportionality.

According to our survey, states viewed some federal policies, such as those that promote adoption, as helpful for reducing the proportion of African American children in foster care. However, they also expressed concerns regarding policies that limit the use of federal funds to provide preventive services and support legal guardianship arrangements. As an alternative to adoption, subsidized guardianship is considered particularly promising for helping African American children exit from foster care.

Proportion of Children in Foster Care Settings, End of Fiscal Year 2006



Source: GAO analysis of preliminary 2006 data from the Adoption and Foster Care Analysis and Reporting System and 2006 Census data.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our work on African American children and the extent to which they are disproportionately represented in foster care relative to their share of the general population.¹ Nationwide, about 510,000 children were in foster care at the end of fiscal year 2006, a significant proportion of them African American children. African American children were about three times as likely to be placed in foster care compared with White children in 2006, and African American children remained in foster care about 9 months longer as well.² This disproportionality occurs despite the fact that national studies have shown that children suffer from abuse and neglect at the same rates regardless of their race or ethnicity.³ Although states vary considerably, data from nearly all states show some overrepresentation of African American children in foster care.

As you know, about 60 percent of children who enter foster care do so in response to reports of child abuse or neglect that are provided to a state's child welfare system by doctors, teachers, police officers, and others.⁴ Child welfare staff make decisions about whether a child can or cannot remain safely at home with their families, which are then presented before a judge who corroborates or overturns the decision. If a child enters foster care, child welfare staff develop case plans, approved by the courts, outlining the actions that parents must take before a child can be returned home. If the courts decide that children cannot be safely returned home, caseworkers establish other goals for them, such as adoption or legal guardianship. Although states have the primary responsibility for establishing the structures and programs of their child welfare services, federal policies establish a framework within which states make their

¹Racial disproportionality refers to the extent that children of a certain race or ethnic group are over- or underrepresented in foster care relative to their proportion in the population.

²The difference in length of time in foster care is based on 2004 Adoption and Foster Care Analysis and Reporting System data because we were not able to obtain more recent data in time for this testimony.

³See the National Incidence Study (NIS), a congressionally mandated, periodic effort of the National Center on Child Abuse and Neglect to obtain information about the current incidence of child abuse and neglect in the United States. NIS-1 was published in 1981, NIS-2 in 1988, and NIS-3 in 1996. The NIS-3 findings are based on a nationally representative sample of over 5,600 professionals in 842 agencies serving 42 counties in the United States. Reports from the NIS-4 are anticipated in December 2008.

⁴Children also enter foster care for other reasons, such as their parents' illness, death, or disability or because of the children's delinquent behavior and truancy.

programmatic and fiscal decisions. The Department of Health and Human Services (HHS) is the principal federal agency that provides federal oversight of states' child welfare systems.

My remarks today will focus on the following issues with regard to the proportion of African American children in foster care:

(1)The major factors that have been identified as influencing the proportion of African American children entering and remaining in foster care;

(2)the strategies that states and localities have implemented that appear promising in addressing African American children's overrepresentation in foster care; and

(3)the ways in which key federal child welfare policies⁵ may have influenced African American children's representation in foster care.

This testimony is based on findings from our July 2007 report⁶ on this subject, which we developed using multiple methodologies, including a nationwide Web-based survey of state child welfare administrators,⁷ site visits to multiple states and counties, and interviews with child welfare researchers and HHS officials.⁸ For our 2007 report, we also analyzed HHS data on foster care and adoption, conducted a review of research on racial disproportionality in foster care, and analyzed federal legislation and policies. For this testimony, we updated some information based on foster care and adoption data sources, but HHS did not provide us with any updates on its activities in time for this testimony. We conducted our work between June 2006 and July 2007 and updated as possible in July 2008 in accordance with generally accepted government auditing standards. Those

⁵We are using the term "policy" in this testimony to include federal laws, regulations, and informal agency guidance.

⁶GAO, *African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care*, [GAO-07-816](#) (Washington, D.C.: July 11, 2007).

⁷We surveyed the 50 states and the District of Columbia and received responses from 47 states and the District of Columbia.

⁸Although we focused on African American children in this testimony and our report, our report also noted points of similarity or difference with children of other races and ethnicities as appropriate. Native Americans are also overrepresented nationally, but some are affected by different child welfare laws and oversight authority than African Americans, making comparisons challenging. See [GAO-07-816](#) for more information.

standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

A higher rate of poverty and challenges in accessing support services, as well as racial bias coupled with distrust of the child welfare system, and difficulties in finding appropriate permanent homes were identified in our survey of child welfare directors as key factors influencing the proportion of African American children in foster care. Thirty-three states in our survey cited high rates of poverty among African Americans as a factor influencing children's entry into foster care. Also, families living in impoverished neighborhoods often do not have access to support services that can help them weather problems when they arise. However, research suggests that poverty does not fully account for differing rates of entry into foster care. State child welfare directors we surveyed also responded that bias or cultural misunderstanding and distrust between child welfare decision makers and the families they serve also contribute to the removal of children from their homes. For children who cannot be reunified with their families, state officials reported difficulties in finding them appropriate permanent homes, in part, because of the challenges in recruiting adoptive parents, especially for youth who are older or have special needs. African American children also stay in foster care longer, in part, because of a greater reliance on relatives to provide foster care. Although this type of foster care placement, known as kinship care, can be less traumatic for children, it is also associated with longer lengths of stay.

Researchers and officials stressed that no single strategy would fully address the issue of disproportionality, and most states in our survey reported implementing some strategies that experts have identified as promising for African American children. For example, some states are working to reduce bias by providing cultural competency training for caseworkers and to increase access to support services by collaborating with neighborhood-based support organizations. States also reported that they were working to increase the availability of permanent homes by diligently searching for fathers and other paternal kin who could provide care. However, public and private officials in the forefront of research and implementation said that the ability to analyze data was fundamental to any attempt to address racial disproportionality. State child welfare directors generally reported in our survey that they needed additional support in analyzing data on disproportionality and disseminating

strategies. Our July 2007 report therefore recommended that the Secretary of HHS provide states with additional technical assistance and tools to develop strategies to address disproportionality. In its comments, HHS noted that our recommendation was consistent with its efforts to provide technical assistance to states for addressing disproportionality, but the department did not address the specific actions we recommended. We continue to believe that it is important for HHS to take these actions to help states address this complex issue.

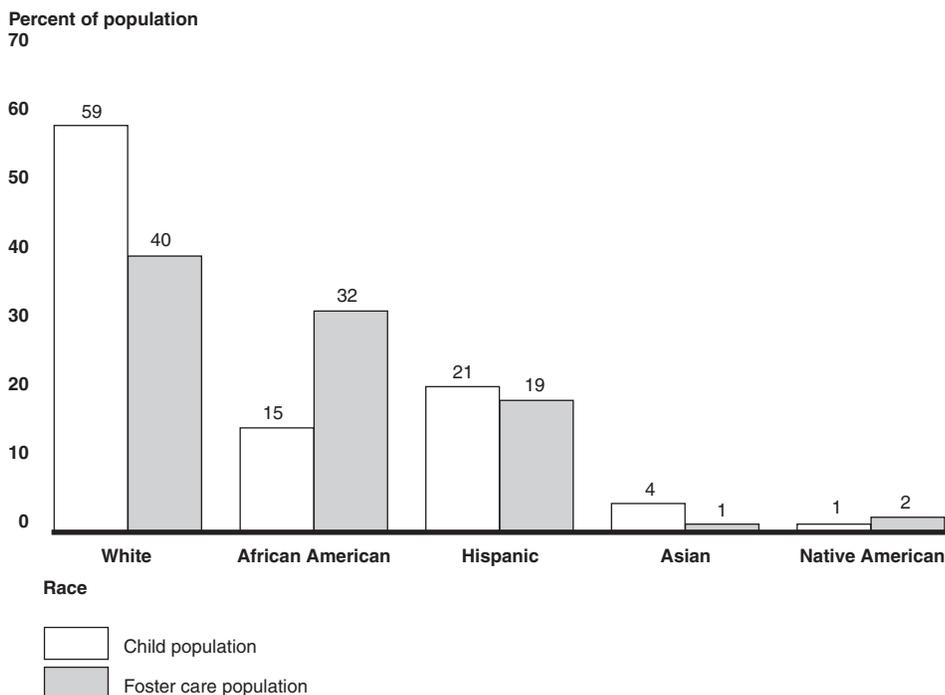
Finally, while states viewed some federal policies as helpful for reducing the proportion of African American children in foster care, they also expressed concerns regarding policies that limit the use of federal funds for services to prevent the removal of children in the first place and to place children with legal guardians. First, states expressed concerns that federal funding emphasized finding permanent homes for children after they had been removed, rather than on preventing the removal of children from their homes in the first place. With regard to finding homes for children who had already been removed, states generally viewed federal adoption policies as helpful in reducing disproportionality, including federal subsidies for adoptive families and the requirement to recruit minority adoptive parents. However, states faced challenges in recruiting enough adoptive parents. States also considered legal guardianship as particularly helpful in enabling African American children to exit foster care, but noted that while they can use federal funds to pay subsidies to adoptive parents, they cannot do so for legal guardians. Our draft report recommended that HHS pursue specific measures to allow adoption assistance payments to be used for subsidizing legal guardianship. In its comments, HHS disagreed with our recommendation, stating that its proposal for restructuring child welfare funding would give states the option to do this. However, HHS has presented this option in its budget proposal each year since 2004, but no legislation has been offered to date to authorize it. Because the viability of HHS's proposal is uncertain, in our July 2007 report we suggested that Congress consider amending current law to allow subsidies for legal guardianships. To date, the House of Representatives has passed a bill with a provision to allow states to use federal funds to subsidize legal guardianship for relatives, and the Senate has introduced a bill with a similar provision.

Background

African American children were more likely to be placed in foster care than White or Hispanic children in 2006, and at each decision point in the child welfare process the disproportionality of African American children grows. Nationally, although African American children made up less than 15 percent of the overall child population in the 2000 Census, they

represented 26 percent of the children who entered foster care during fiscal year 2006 and 32 percent of the children remaining in foster care at the end of that year (see fig. 1).⁹

Figure 1: Proportion of Children by Race in Foster Care Settings, End of Fiscal 2006



Source: GAO analysis of preliminary 2006 data from the Adoption and Foster Care Analysis and Reporting System and 2006 Census data.

There are various options for placing children in temporary and permanent homes through the child welfare system. Temporary options include foster care with relatives or nonrelatives—whether licensed or unlicensed—and group residential settings. According to HHS, approximately one-fourth of the children in out-of-home care are living

⁹Although racial disproportionality is most severe and pervasive for African American children, Native American children also experience higher rates of representation in foster care than children of other races or ethnicities. It is also important to understand local variations for Hispanic and Asian children, since they are underrepresented in foster care nationally and in most states but are overrepresented in some counties and states. For disproportionality rates for African American, White, Hispanic, Asian, and Native American children by state in fiscal year 2004, see appendix II of [GAO-07-816](#).

with relatives, and this proportion is higher for Hispanic and African American families. For permanent placements, children can be reunified with their parents, or if reunification is not considered possible, children can be adopted or live with a legal guardian. Although both adoption and guardianship are considered permanent placement options under federal law,¹⁰ an important difference is that adoption entails terminating parental rights, while guardianship does not. Another difference is that some adoptions may be subsidized with federal funds.

Federal funds account for approximately half of states' total reported spending for child welfare services, with the rest of funding coming from states and localities. In fiscal year 2004, total federal spending on child welfare was estimated to be \$11.7 billion based on analysis of data from more than 40 states.¹¹ Titles IV-E and IV-B of the Social Security Act are the principal sources of federal funds dedicated for child welfare activities. Title IV-E supports payments to foster families, subsidies for families who provide adoptive homes to children who states identify as having special needs that make placement difficult,¹² and related administrative costs on behalf of children who meet federal eligibility criteria. Title IV-E payments for foster care maintenance are open-ended entitlements. Title IV-B authorizes funds to states for broad child welfare purposes, including child protection, family preservation, and adoption services; these funds are appropriated annually.¹³ Federal block grants, such as the Temporary Assistance for Needy Families (TANF) and the Social Services Block Grant

¹⁰The Adoption and Safe Families Act of 1997 (Pub. L. No. 105-89) recognized legal guardianship under federal law as another option for placing children in permanent homes. Prior to this, children's options for exiting foster care included being reunified with their parents, adopted by a relative or nonrelative, or emancipated from foster care when they had reached a certain age, usually 18.

¹¹These data were reported in the Urban Institute 2005 Child Welfare Survey in May 2006. This funding analysis is the most recent available that shows federal funding used specifically for child welfare.

¹²The term "special needs" is used in a distinct way in Title IV-E programs. In order to be considered a child with special needs for the purpose of providing adoption assistance payments, states must determine that the child should not return home and have a factor or condition that would make the child difficult to place for adoption without such payments. States are provided discretion under federal law to determine what these factors or conditions are and may include age, membership in a sibling or minority group, or having a medical or developmental disability that would make placement difficult. There are additional eligibility requirements to obtain adoption assistance subsidies as well.

¹³For further information on Title IV-B funds, see GAO, *Child Welfare: Enhanced Federal Oversight of Title IV-B Could Provide States Additional Information to Improve Services*, [GAO-03-956](#) (Washington, D.C.: Sept. 12, 2003).

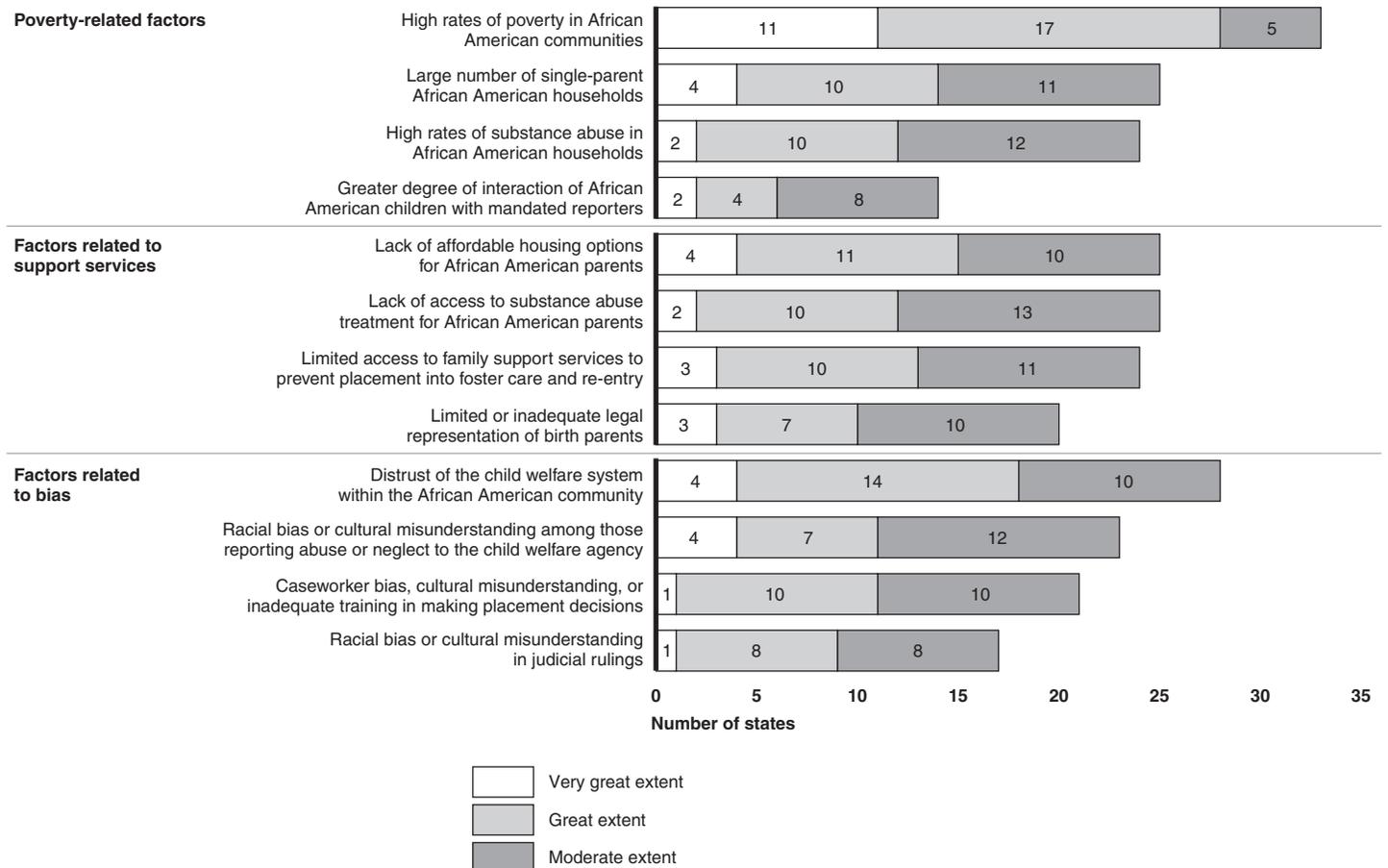
(SSBG), provide additional sources of funds that states can use for child welfare purposes. States have discretion to provide direct social services for various populations, including child welfare families, the elderly, and people with disabilities.

In 1994, the Congress authorized the use of demonstration waivers to encourage innovative and effective child welfare practices. These waivers, typically authorized for 5 years, allowed states to use Title IV-E funds to provide services and supports other than foster care maintenance payments. For example, four states had completed demonstrations that involved subsidized guardianships, and, as of May 2007, seven states had active guardianship demonstrations and one state had not yet implemented its guardianship demonstration. Demonstration waivers must remain cost-neutral to the federal government, and they must undergo rigorous program evaluation to determine their effectiveness.

States Report Poverty and Difficulty in Finding Permanent Homes Are among Major Factors Influencing African Americans Entry and Length of Stay

A complex set of interrelated factors influence the disproportionate number of African American children who enter foster care, as well as their longer lengths of stay. Major factors affecting children's entry into foster care included African American families' higher rates of poverty, difficulties in accessing support services, and racial bias or cultural misunderstanding among child welfare decision makers, as well as families' distrust of the child welfare system. Factors often cited as affecting African American children's length of stay in foster care included the lack of appropriate adoptive homes for children, parents' lack of access to support services needed for reunification with their children, and a greater use of kinship care among African American families. (See fig. 2.)

Fig. 2: State Views of Factors Affecting Higher Entry of African American Children to Foster Care



Source: GAO analysis of state child welfare survey responses.

In our survey, 33 of the 48 states from which we received responses reported that high rates of poverty in African American communities and issues related to living in poverty may increase the proportion of African American children entering foster care compared to that of children of other races and ethnicities. Across the nation, African American families were nearly four times more likely to live in poverty than White families, according to U.S. Census data.¹⁴ Since foster care programs primarily serve children from low-income families, this could account for some of the disproportionate number of African American children in the foster care

¹⁴U.S. Census American Community Survey, 2006.

system. In addition, child welfare directors in 25 states reported that the greater number of African American single-parent households contributed to African American children's entry into foster care. According to the most recent National Incidence Study, children of single parents, who are also more likely than married couples to be poor, had a 77 to 87 percent greater risk of harm than children from two-parent families.¹⁵ Across the nation, 34 percent of African American family households with children under 18 years of age were headed by single females compared to 9 percent for Whites and 19 percent for Hispanics, according to U.S. Census data.¹⁶

Moreover, families living in impoverished neighborhoods often do not have access to the kinds of supports and services that can prevent problems in the home from leading to abuse or neglect, according to states we surveyed and other research. Such supports and services include affordable and adequate housing; substance abuse treatment; access to family services such as parenting skills workshops and counseling; and adequate legal representation.¹⁷ Also, there is some evidence that African American families, in particular, are not offered the same amount of support services when they are brought to the attention of the child welfare system.¹⁸

Coupled with African American parents' greater distrust of the child welfare system, racial bias or cultural misunderstanding among decision makers also emerged in our survey as major factors contributing to the disproportionate number of African American children entering foster care. According to state child welfare officials and some researchers we interviewed, African American families' distrust of the child welfare system stems from their perception that the system is unresponsive to their needs and racially biased against them. This perception can shape the families' dynamics in their initial contacts with mandated reporters, caseworkers, and judges, which can increase the risk the child will be

¹⁵A. Sedlak and D. Broadhurst, *Executive Summary of the Third National Incidence Study of Child Abuse and Neglect*. A report prepared for the U.S. Department of Health and Human Services, (Washington, D.C., 1996).

¹⁶U.S. Census American Community Survey data from 2006.

¹⁷Some child welfare officials also pointed out that lower income families may be referred to the child welfare system in order to gain access to such services.

¹⁸Ann F. Garland et al., "Racial and Ethnic Variations in Mental Health Care Utilization Among Children in Foster Care," *Children's Services: Social Policy, Research and Practice*, 3(3): 133-146 (2000).

removed from the home. In our survey, state child welfare directors also reported that they considered racial bias or cultural misunderstanding on the part of those reporting abuse or neglect—such as teachers, medical professionals, or police officers, as well as among caseworkers—as factors in the disproportionate representation of African American children entering foster care. In support of this view, some studies have found that medical professionals are more likely to report low-income or minority children to child protective services.¹⁹ Although research on racial bias or race as a predictor for entry into foster care is not always consistent, a recent review of the current research concluded that race is an important factor that affects the decision to place children into foster care.²⁰

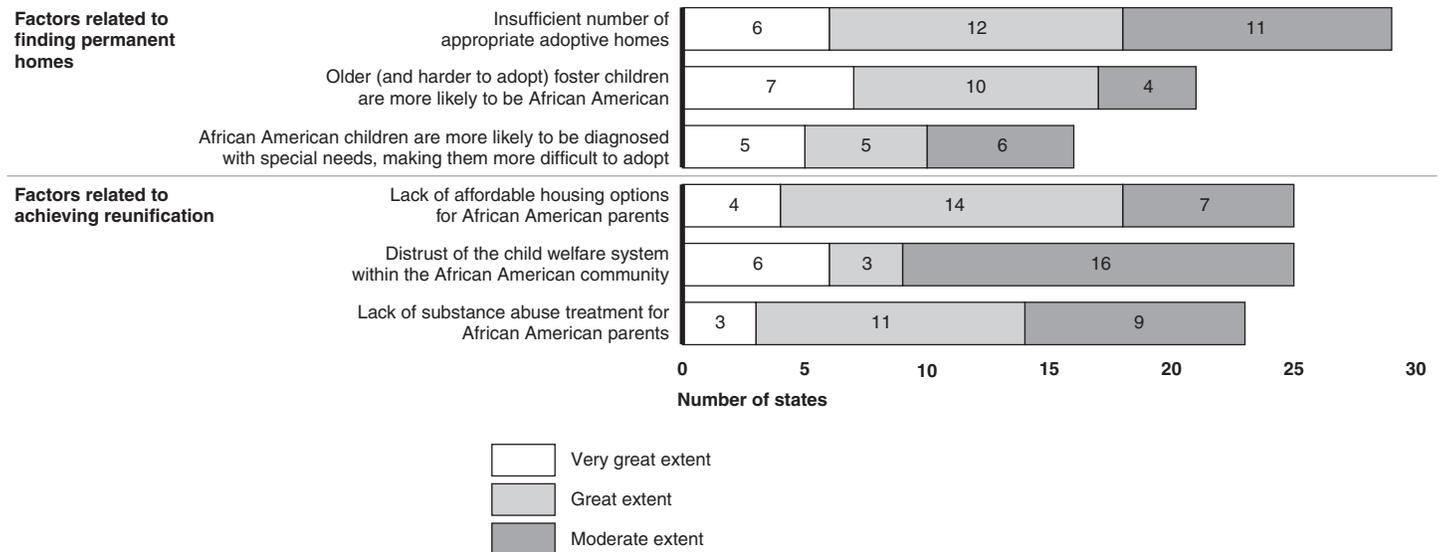
Among factors cited as affecting African American children’s longer lengths of stay in foster care, officials from 29 states cited an insufficient number of appropriate adoptive homes as a key factor. African American children constituted nearly half of the children legally available for adoption in 2004, and they waited significantly longer than other children for an adoptive placement. Factors that make finding adoptive families for African American children challenging include the difficulty many states have in recruiting adoptive families of the same race and ethnicity as the children waiting for adoption and the unwillingness of some families to adopt a child of another race. In addition, states we surveyed reported that African American children waiting to be adopted were older, and prospective adoptive parents are more inclined to adopt younger children.²¹ (See fig. 3.)

¹⁹For example: R. L. Hampton and E. Newberger, “Child Abuse Incidence and Reporting by Hospitals: Significance of Severity, Class and Race,” *American Journal of Public Health* (75) 1: 56-60 (1985). For information on other studies, see Robert Hill, *Synthesis of Research on Disproportionality in Child Welfare: An Update* (Casey-Center for the Study of Social Policy Alliance for Racial Equity in the Child Welfare System, 2006).

²⁰Robert B. Hill, *Synthesis of Research on Disproportionality in Child Welfare: An Update* (Casey-Center for the Study of Social Policy Alliance for Racial Equity in the Child Welfare System, 2006).

²¹According to our analysis of Adoption and Foster Care Analysis and Reporting System (AFCARS) fiscal year 2004 data, African American children are even more disproportionately represented in foster care at older ages than other children.

Fig. 3: State Views of Factors Affecting Longer Time in Foster Care for African American Children



Source: GAO analysis of state child welfare survey responses.

Additionally, the belief that African American children are more likely to be diagnosed as having medical and other special needs, which may contribute to their longer lengths of stay in foster care, was reported by state officials. In fact, African American children in foster care in 2004 were only slightly more likely to have been diagnosed as having medical conditions or other disabilities (28 percent) than White children in foster care (26 percent), according to HHS data. However, 23 percent of African American children who were adopted out of foster care had a medical condition or disability, compared to 31 percent of White children in the same category.

Some of the same factors that states view as contributing to African American children’s entry also contribute to their difficulties in exiting foster care and being reunified with their families. In our survey, nearly half of the states considered the lack of affordable housing, distrust of the child welfare system, and lack of substance abuse treatment as factors contributing to African American children’s longer lengths of stay. The lack of such supports and other services in many poor African American neighborhoods contributes to children’s longer stays in foster care because services can influence a parent’s ability to reunify with their child in a timely manner, according to our survey, interviews, and research.

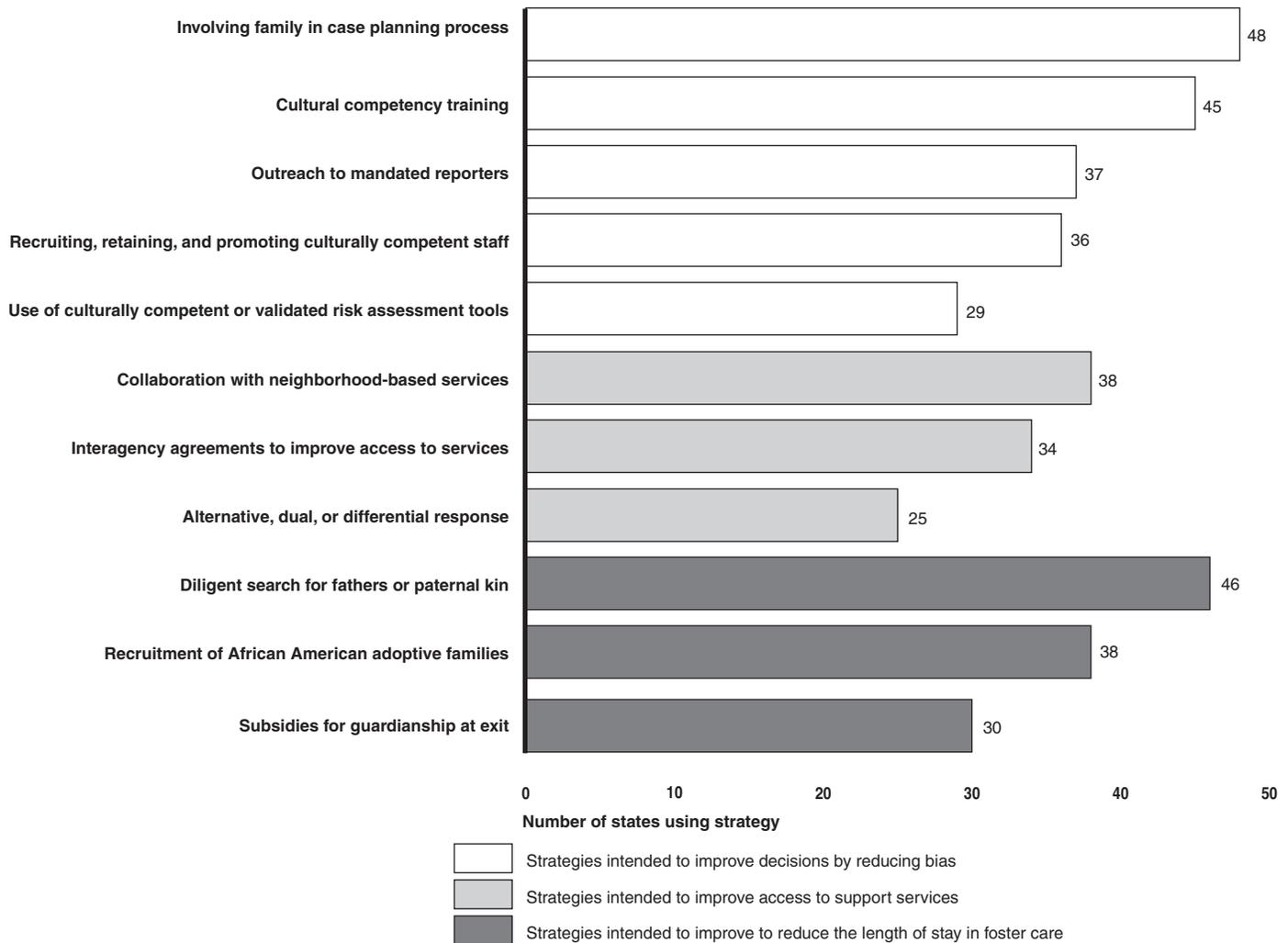
States also reported that the use of kinship care was a factor contributing to longer lengths of stay in foster care for African American children. African American children are more likely than White and Asian children to enter into the care of relatives, which is associated with longer lengths of stay. Relatives may be unwilling to adopt the child because it would require termination of their relative's parental rights or because they might lose needed financial support they receive as foster parents. However, despite the longer lengths of stay, child welfare researchers and officials we interviewed consider these placements to be positive options for African American children because they are less stressful to the child and maintain familial ties.

**States Reported
Implementing
Strategies Considered
Promising for
Addressing
Disproportionality but
Also Reported
Needing More
Technical Assistance**

Researchers and child welfare administrators we interviewed stressed that no single strategy could fully address disproportionality in foster care, partly because so many interrelated factors contribute to it. According to our survey, the strategies that states implemented tended to focus on addressing racial and cultural bias in decision making, families' problems in accessing support services, and agencies' challenges in finding permanent homes so that children can exit foster care more quickly. In addition, data collection and analysis were considered essential for identifying problems and devising strategies to address them, but states reported needing additional assistance in this area.

To help mitigate bias and cultural misunderstanding among decision makers, states reported implementing a range of strategies, such as including family members in case planning; providing training to strengthen caseworkers' competency in working with families from various cultures; reaching out to ensure that public officials are not inappropriately referring families for abuse and neglect through mandated reporting; and implementing the use of certain tools to help caseworkers make more systematic decisions regarding the level of a child's risk. (See fig. 4.) According to an evaluation in Texas, for example, for African American families who participated in case planning that included family group decision making, 32 percent of the children returned home—more than twice as many as in families who received traditional services.

Figure 4: Number of States Using Strategies to Address Disproportionality, Grouped by Type of Factor



Source: GAO analysis of state child welfare survey responses.

To improve families’ access to services, states reported collaborating with neighborhood-based support organizations, establishing interagency agreements to improve access to these services, and implementing an alternative approach to the assessment process that emphasizes helping families obtain needed supports and services, instead of removing children from their families. For example, in Los Angeles County, child welfare officials went door to door in minority neighborhoods to find service providers beyond those with whom they historically contracted. This

collaboration helped build trust between the community and the child welfare agency and increased families' use of the services provided.

For African American children who cannot ultimately be reunified with their parents, states also reported devising strategies to increase the number of permanent homes available to them. To increase the options for African American children, 46 states reported making diligent searches for fathers and other paternal kin who can care for these children—not a routine practice until recently. Additionally, a federal law passed in 1994 and amended in 1996 require states to diligently recruit potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state who need foster and adoptive homes.²² Likely in response to these laws, states have adopted various strategies to recruit greater numbers of African American adoptive parents, such as contracting with faith-based organizations and convening adoption support teams. However, despite these efforts, the number of African American children adopted by African American parents has not increased in recent years. In addition, HHS's 2001 to 2004 review found that only 21 of 52 states were sufficiently recruiting minority families, and one report found that the recruitment of minority families was one of the greatest challenges for nearly all states.²³

Using subsidized guardianship as an alternative to adoption may hold particular promise for reducing disproportionality, and more than half of the states surveyed reported using this strategy.²⁴ African American children are more likely than White children to be placed with relatives for foster care, which is generally a longer-term placement, and these relative caregivers are also more likely than nonrelative foster parents to be low-income. They may be unwilling to adopt because they may find it difficult

²²See the Multi-Ethnic Placement Act of 1994 (Pub. L. No. 103-382, §§ 551-553), as amended in 1996 by the Interethnic Adoption Provisions included in the Small Business Job Protection Act (Pub. L. No. 104-88, § 1808), referred to as MEPA/IEP.

²³Urban Institute Child Welfare Research Program, *Foster Care Adoption in the United States: A State by State Analysis of Barriers and Promising Approaches* (November 2004).

²⁴A 2006 report by Generations United found that a total of 35 states and the District of Columbia were subsidizing legal guardianships, generally through federal IV-E waivers; federal block grants, such as TANF; or state and local funds. (See <http://ipath.gu.org/documents/A0/GU-GeneralFactSheetJune.pdf>.) Three of these states, Maryland, New Jersey, and Rhode Island, did not respond to our survey on disproportionality. Other states may subsidize guardianships but not limit these subsidies to families involved in the state child welfare system.

financially to forego foster care payments or because adoption entails terminating the parental rights of their kin. However, subsidized guardianship programs provide financial support for foster parents (often relatives) who agree to become legally responsible for children but are unable or willing to adopt. When Illinois and California implemented two of the largest of such programs, they subsequently saw an increase in permanent placements for all children. After instituting their subsidized guardianship programs, more than 40 percent of children who were in long-term relative foster care in both states found permanency. In Illinois, this decrease also coincided with a reduction in disproportionate numbers of African American children in foster care.

In addition to these types of strategies, child welfare administrators and researchers told us that data collection, analysis, and dissemination are needed to inform attempts to address disproportionality. These data can include not only disproportionality rates but also information that identifies the extent to which disproportionality occurs among different age groups, at different stages in the child welfare process, and in different locations. For example, a California researcher used state data to show that African American infants enter foster care at a much higher rate than infants of other races or ethnicities and that this disproportionality grows as children get older because African American children are also less likely to exit foster care. Such data analyses help states and localities devise strategies to address the issue and can also be useful for building consensus among community leaders and policymakers for action. However, some state and local agencies have limited capacity to do this. In responding to our survey, 25 states reported that receiving technical assistance from HHS in calculating disproportionality rates and tracking it over time would be useful.²⁵ California state child welfare officials told us that without the aid of a university researcher, they would not have the ability to help counties that lack the capacity to collect and analyze their data. Despite the importance of data analysis, 18 states reported that they were not regularly analyzing or using data in their efforts to address disproportionality.

HHS has made technical assistance and information on disproportionality available to states at conferences and through various HHS Web sites. In addition, the agency is compiling an inventory of tools and best practices

²⁵Although 18 states in our survey believed that having reporting requirements on disproportionality rates in HHS's Child and Family Services Review process would be useful, nearly as many responded that it would not be useful. HHS officials told us that this process was governed by statute and that they could not add such a requirement.

for addressing disproportionality. Despite these efforts, states report that they need further information and technical assistance to strengthen their current efforts in addressing disproportionality. Accordingly, in our July 2007 report, we recommended that HHS take certain actions to further assist states in understanding and addressing the nature and extent of racial disproportionality in their child welfare systems. In its comments, HHS noted that our recommendation was consistent with its efforts to provide technical assistance to states for addressing disproportionality, but the department did not address the specific actions we recommended. We continue to believe that it is important for HHS to take these actions to help states address this complex issue.

States Reported That More Flexibility to Use Federal Funds for Prevention Services and Subsidized Guardianship Could Help Reduce Disproportionality

While states viewed some federal policies as helpful for reducing the proportion of African American children in foster care, they also expressed concerns regarding policies that limit the use of federal funds to provide preventive services and support legal guardianship arrangements. As an alternative to adoption, states considered subsidized guardianship as particularly helpful in enabling African American children to exit foster care but noted that while they can use federal child welfare funds to pay subsidies to adoptive parents, they cannot do so for guardians.²⁶

At least half the states we surveyed noted that the structure of federal child welfare funding may contribute to disproportionality by favoring foster care placements over services to prevent the removal of children from their homes in the first place. Of particular concern to 28 states in our survey were the caps on funding for preventive and family support services under Title IV-B, and 25 states expressed concern about their inability to use foster care funds under Title IV-E for purposes other than making payments to foster care families. A recent GAO report similarly found that preventive and family support services were the services most in need of greater federal, state, or local resources.²⁷ According to California and Minnesota officials, because the majority of federal child welfare funds are used for foster care payments instead of preventive services, federal funding policies did not align with states' efforts to reduce the number of children entering foster care by serving at-risk

²⁶As of May 2007, seven states that were granted waivers to use Title IV-E funds to provide services and supports other than foster care maintenance payments were actively using Title IV-E funds to provide subsidies for guardianships.

²⁷See GAO, *Child Welfare: Improving Social Service program, Training, and Technical Assistance Information Would Help Address Long-standing Service-level and Workforce Challenges*, [GAO-07-75](#) (Washington, D.C.: Oct. 6, 2006).

children safely in their homes. However, states do have the freedom to use other federal funds, particularly TANF block grants, to provide preventive and supportive services to families, and 23 states reported that the ability to use these funds contributes to a reduction in the proportion of African American children in foster care.²⁸ States face competing priorities for the use of their TANF block grant funds, and not all states use them for child welfare activities.

Once children are removed, states reported that federal policies promoting adoption were generally helpful; however, states' views were mixed on certain requirements specifically intended to eliminate race-related barriers to adoption. Policies that promote adoption of African American children were generally viewed as helpful, such as allowing states to classify African American children as having "special needs," which allows them to provide subsidies to adoptive parents, according to our survey results. However, views of other requirements were mixed. Although 22 states reported that the federal policies requiring states to diligently recruit ethnically and racially diverse adoptive families would help reduce disproportionality, 9 states reported the federal requirements had no effect, and 15 states reported that they were unable to tell.²⁹

States continue to face challenges in recruiting adoptive families—such as a shortage of willing and qualified parents, especially for older African American children, or a lack of resources for recruiting initiatives—and more than half of states are not meeting HHS performance goals in this area.³⁰ Over the last 5 years, African American children and Native American children have consistently experienced lower rates of adoption than children of other races and ethnicities, and since 2000, adoption rates have reached a plateau, according to HHS data and other research.

As an alternative to adoption, many child welfare officials and researchers we interviewed considered subsidizing legal guardianship a particularly

²⁸As with all block grants, state officials determine the use of these funds and their program priorities.

²⁹MEPA/IEP also prohibits foster care and adoption agencies receiving federal funds from delaying or denying placement decisions on the basis of race, color, or national origin. Fifteen states reported that encouraging race-neutral adoptions would help reduce disproportionality, 18 states responded that this policy had no effect, and 12 states reported that they were unable to tell.

³⁰This is based on HHS data from between 2001 and 2004. Challenges in recruiting are consistent with survey responses in an earlier GAO study as well. See [GAO-07-75](#).

important way to help African American children exit foster care. However, there are no federal subsidies for guardianship similar to those available for adoption, which constrains states' ability to place children in these arrangements. Seven states have a federal demonstration waiver, which allows them to use Title IV-E funds for subsidized guardianship. All states did so in a cost-neutral manner, as required by the waivers.³¹ In California and Illinois, subsidizing these legal guardianships has been found to reduce the number of children in foster care, including African American children. In addition, guardianship and adoption both have been found to provide comparable levels of stability for children and show similar outcomes in terms of emotional and physical health, according to an evaluation of Illinois's guardianship program. Because of the challenges states face finding adoptive homes for many African American children and because legal guardianship may offer a more suitable alternative for families who want to permanently care for related children without necessarily adopting them, we recommended, in our 2007 draft report, that HHS pursue specific measures to allow adoption assistance payments to be used for subsidizing legal guardianship. In its comments, HHS disagreed with our recommendation, stating that its proposal for restructuring child welfare funding, known as the Child Welfare Program Option, would give states the option to do this. However, HHS has presented this option in its budget proposal each year since 2004, but no legislation has been offered to date to authorize it. Moreover, even if enacted, it is unknown how many states would choose to implement this funding structure. Because the viability of HHS's proposal is uncertain, in our final July 2007 report, we suggested that Congress consider amending current law to allow adoption assistance payments to be used for legal guardianship. To date, the House of Representatives has passed a bill with a provision to allow states to use federal funds to subsidize legal guardianship for relatives, and the Senate has introduced a bill with a similar provision.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or other Members of the Subcommittee may have.

³¹According to HHS officials, these programs can be cost-neutral because the administrative costs associated with maintaining a child in foster care are no longer incurred with permanent legal guardianships.

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Related GAO Products

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