

Foster Care Plus Love

By Gerard Wallace

More than \$7 billion is spent each year to rescue children from abuse and neglect, but the effort is a failure. The federal government's audits, and now the report of the Pew Commission on Children in Foster Care, all document that children are losing. As Pew Commission Chairman Bill Frenzel stated, "The nation's foster care system is unquestionably broken." The report recommends fixing the "system." But, despite repeated efforts over several decades, no remedy has worked. Why will any work now? Perhaps it's time to stop trying.

The nation already has another child welfare system -- one that works. The broken official "system," if it can be called that, has tens of thousands of bureaucrats, volumes of statutes, squadrons of lawyers and the "unseen" partnership of the nation's courts. The other system has no bureaucracy, hardly any statutes and only a handful of attorneys, and it is often at odds with the courts. The broken system cares for 500,000 children, the other for almost 5 million. One ruins children, the other saves them. The system that works is, simply, America's grandparents.

According to the 2000 Census, more than 2.5 million grandparents are solely responsible for their grandchildren. Many more are willing to care for their grandchildren. This national resource is made up of mature, stable and unselfish people. They parent again, not for money but for love.

For the first time in history, parents are not the only generation capable of caring for the next. Social and medical advances over the past 100 years

have added almost 30 years to our lives. We are now living with vitality and good health into our eighties. Thirty years means that America's 77 million grandparents can become the backbone of a successful child welfare system.

Full use of the nation's grandparents is the only cure for the sickness of foster care. Many of the half-million children left in foster care could live with their grandparents, but so far laws and policies do not put time and money into finding grandparents and enabling them to be caregivers.

The reason is simple: Grandparents are the new kids on the block. Traditionally only parents and the state were entitled to care for children. While parents have numerous legal protections, for more than 100 years case law has given grandparents only a moral right regarding family matters. Given the current epidemic of child abuse and neglect, what was unassailable a century ago cannot be sustained today. Aside from parents, the state alone has the power to protect children. But, as the Pew Commission report notes, state protection just isn't working.

Grandparents are not in conflict with parents or the state. On the contrary, they are natural allies. As one grandparent said, "When parents can't parent, grandparents can." Indeed, the June 2000 Report to Congress on Kinship Foster Care emphatically declares that kin should be the primary resource for children who cannot remain with their parents.

Incredibly, however, judges have rejected the principle that grandparents are the natural substitute guardians for children. The child welfare system and its ally, the court system, refuse to acknowledge what common

sense and our traditions affirm. The results of their entrenchment are tragic. When children are removed from parental homes, they can wind up in the care of strangers.

Instead of fixing the foster care system, we should make laws that enable grandparents to become caregivers. Arguments that there is no legal foundation for grandparent caregiver rights are in error. In *Moore v. City of East Cleveland* and in *Troxel v. Granville*, the Supreme Court has acknowledged that grandparents have constitutional protections similar to those of parents.

Lawmakers must change direction. Sen. Hillary Rodham Clinton (D-N.Y.) is introducing a bill that would provide federal funding for programs that support these caregivers. New Jersey's Kinship Navigator program offers information and referral, child care, financial assistance, and guardianship subsidies. New York's Grandparent Caregivers' Rights Act gives grandparents a chance to keep their grandchildren and mandates that the "system" inform all grandparents when children are placed in state care. These efforts and others must replace the existing "system."

As the slogan of the National Committee of Grandparents for Children's Rights declares, "Children from broken homes should not have to lead broken lives." Unfortunately, they'll continue to lead broken lives if we just keep on trying to fix the broken child welfare "system."

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