

AMICUS CURIAE BRIEF – CHILDREN’S INTERESTS ARE BEST SERVED BY PROMPT
RESOLUTION OF TPR CASES ON THE MERITS

Note: This document is the core of the brief filed on behalf of Prof. Harris and the Child Advocacy Project as amicus curiae in State ex rel Juv. Dept. v. D.C.J., Oregon Court of Appeals no. A134837 (filed May 2007). The brief was written by Harris and the 2006-07 Child Advocacy Fellows and filed by Oregon State Bar member Laura B. Rufolo, an associate in the firm of Johnson Renshaw & Lechman-Su.

ARGUMENT

1. Trial court rulings that dispose of contested termination of parental rights cases on procedural grounds are likely to promote protracted litigation and delay and are, therefore, inconsistent with the goal of achieving permanency for children expeditiously.

In *State ex rel Juv. Dept. v. Geist*, 310 Or 176, 796 P2d 1193 (1990), the Oregon Supreme Court case recognized that parents have a right to the effective assistance of counsel in termination of parental rights cases, the Court emphasized the importance of resolving these cases expeditiously. The Court said,

Any delay in achieving finality in a termination case adversely affects the rights of all the parties. Delay certainly will weaken the bonds between parents and children by lengthening their separation. Whether or not the eventual result is termination, protracted litigation extends uncertainty in the child(ren)'s life.

310 Or at 186-87. For this reason the Court held that claims of ineffective assistance must be raised on direct appeal, rather than by collateral attack after direct appeals have been exhausted.

Id. See also *State ex rel SOSCF v. Hammon*, 169 Or App 589, (593-94), 10 P3d 310 (2000) (right to effective assistance of counsel extends to counsel on appeal; court may fashion expeditious remedy to avoid delaying case).

Federal and state statutes also recognize the importance of resolving child welfare cases promptly. Examples include the federal requirement that a termination of parental rights petition be filed after a child has been in foster care for 15 of the last 22 months, 42 USC § 675(5)(E), and state requirements that hearings on dependency petitions occur within 60 days of filing, ORS

419B.305; that agencies having custody of children report periodically to the court on progress toward resolving the cases, ORS 419B.440, 419B.443; that courts review cases frequently to determine whether orders have been carried out and progress toward resolving the case has been made, ORS 419B.449; and that courts conduct permanency hearings to determine whether plans to achieve timely permanency for the child are in place and on track, ORS 419B.470-419B.476. The Oregon juvenile code definition of "reasonable time," a term used throughout the code, requires decision makers to keep foremost in mind the adverse impact that delay can have on children's "emotional and developmental needs and ability to form and maintain lasting attachments." ORS 419A.004(20).

When trial courts interpret or apply procedural rules in contested termination cases in ways that preclude reaching the merits of the case, they act inconsistently with the mandate to resolve the cases speedily. This case illustrates the problem. While father consistently indicated his desire to contest the dependency and termination cases against him, his trial and first appellate counsel committed multiple procedural errors as they sought to assist him. When confronted with these mistakes, the trial judge repeatedly ruled that the procedural errors were fatal to reaching the merits of the termination petition, even though in each instance the statutes would have allowed her to permit the case to proceed.

At the initial hearing on the termination petition, the father, who was incarcerated, failed to appear and did not officially notify the court before the hearing of his wish to contest. Father's attorney's co-counsel appeared, and father's attorney spoke to the judge by telephone, telling the judge of father's wishes and asking to be appointed to represent him, as he has alleged is consistent with practice in the county at least part of the time. The judge denied the attorneys' request and allowed the state to present hearsay testimony of a DHS worker to support the

allegations in the termination petition in father's absence and after having dismissed father's attorney. Transcript of January 19, 2006 Hearing 9-10, 17-18, 26-28, 30, 44, 55, attached as ER-2-12. While the governing statute, ORS 419B.917(1) permits a court to proceed in the absence of a person who was summoned and failed to appear, it does not require the court to do so. If the judge had continued the matter to allow father to appear, the trial on the merits of the case and the appeal, if any, from that judgment would likely long since have been completed. Instead, father's counsel committed another error, appealing the judge's order terminating parental rights rather than filing a motion to set aside. A year after the trial judge entered the termination order, this court dismissed the appeal and indicated that the attorney should have filed the motion instead. *State ex rel Juv. Dept. v. Jenkins*, 209 Or App 637, 149 P3d 324(2006).

However, when father's new attorney filed such a motion, the same trial judge disposed of it without addressing father's claim that his initial failure to appear was the result of excusable neglect, attributable to the errors of trial and prior appellate counsel, which he claims amounted to ineffective assistance. TR 17-18, 20-21. The judge ruled that the motion had not been filed within a reasonable time, as required by ORS 419B.923(3). Order Denying Father's Motion to Set Aside Prima Facie and Judgment Terminating Parental Rights Pursuant to ORS 419B.923 at 2, ER-15 (hereinafter Order Denying Father's Motion). Ironically, the trial court explained this ruling as furthering the interest of achieving permanency for the Jenkins children. Order Denying Father's Motion at 2, ER-14, TR 30-32.¹ As might be predicted, given father's consistent determination to fight the dependency and termination actions against him, the ruling has had the opposite effect. Father has appealed, bringing the case before this court again. No court has yet

¹The court trial court also interpreted ORS 419B.923(7) as depriving the trial court of jurisdiction. Order Denying Father's Motion at 2, ER-15. As appellant has argued, this section does not limit the trial court's jurisdiction to hear a motion to set aside to circumstances in which an appeal is pending, but rather makes clear that the court may take jurisdiction even if an appeal is pending. Appellant's Brief at 10-11. As appellant has further explained, even accepting trial court's reading of the statute, an appeal was still pending before the Supreme Court. Id.

addressed his serious claims that he has been denied his constitutional right to effective assistance of counsel, much less heard his arguments against terminating his parental rights.

While trial courts necessarily have substantial leeway to interpret and apply procedural requirements in termination cases, they should exercise this authority to advance the fundamental policies of resolving cases promptly and fairly to serve children's interests in permanency. Cramped interpretations of procedural requirements that avoid the merits contribute in very predictable ways to delay and continued uncertainty in children's lives.

2. Children's interests are best served if contested termination of parental rights cases are resolved by a full and fair trial on the merits, rather than being derailed for procedural errors.

In addition to resolving termination of parental rights cases expeditiously, the interests of children are ordinarily best served when courts allow full and fair hearings on the merits of the cases if parents contest the actions. It has become a cliché that termination of parental rights is "one of the most drastic actions the state can take against its inhabitants." *State v. Jamison*, 251 Or 114, 117, 444 P2d 1005 (1968) [holding limited by *Lassiter v. Dept. of Social Services*, 452 U.S. 18, 27-28, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981)]. Much of the time, this point is made in the course of arguing for protection of the parent's interest in maintaining a relationship with the child. As both the Supreme Court and this Court have observed, however, children have an equally strong interest in maintaining that relationship where appropriate. Ordinarily, if a parent contests a termination action and seeks to preserve his or her relationship to the child, the child's interest is best protected by insuring that a judge makes a decision in the case following a full and fair hearing on the merits, rather than on the basis of cursory, unchallenged testimony presented to make out a prima facie case.

In *Santosky v. Kramer*, 455 U.S. 745, 102 S.Ct. 1388, 71 L.Ed. 2599 (1982), the Supreme

Court employed a basic procedural due process analysis to determine the constitutionally required burden of proof in termination of parental rights cases. 455 U.S. at 746, citing *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). In *Santosky*, the state argued the Court should recognize children as having interests at stake that are adverse to their parents' and that should, therefore, be weighed against the parents' interests. The Court rejected this argument, saying,

At the factfinding, the State cannot presume that a child and his parents are adversaries. After the State has established parental unfitness at that initial proceeding, the court may assume at the *dispositional* stage that the interests of the child and the natural parents do diverge. (citation omitted) But until the State proves parental unfitness, the child and his parents share a vital interest in preventing erroneous termination of their natural relationship. Thus, at the factfinding, the interests of the child and his natural parents coincide to favor use of error-reducing procedures.”

455 US at 760-761. In a footnote the Court further observed,

For a child, the consequences of termination of his natural parents' rights may well be far-reaching. In Colorado, for example, it has been noted: “The child loses the right of support and maintenance, for which he may thereafter be dependent upon society; the right to inherit; and all other rights inherent in the legal parent-child relationship, not just for [a limited] period ..., but forever.” *In re K.S.*, 33 Colo.App. 72, 76, 515 P.2d 130, 133 (1973).

Some losses cannot be measured. In this case, for example, Jed Santosky was removed from his natural parents' custody when he was only three days old; the judge's finding of permanent neglect effectively foreclosed the possibility that Jed would ever know his natural parents.

455 US at 761, n 11.

The Court's conclusion in *Santosky* that children's interests cannot be presumed to be adverse to those of parents in termination proceedings is particularly striking, considering that only three years earlier it had held that children do have constitutionally protected interests adverse to those of parents in situations where the parents' interests do not initially appear to be so contrary to the children's. In *Parham v. J.R.*, 442 U.S. 584, 600 – 604, 99 S.Ct. 2493, 61

L.Ed.2d 101 (1979), the Court recognized that children whose parents seek to commit them to residential mental health facilities have constitutionally protected liberty interests which may be adverse to their parents' interests and that, therefore, due process requires procedural safeguards that protect children against parental overreaching. In the same term, in *Bellotti v. Baird*, 443 U.S. 622, 643, 99 S.Ct. 3035, 61 L.Ed.2d 797 (1979), the Court affirmed that minors have a constitutionally protected right to make their own decisions regarding abortion which are unconstitutionally infringed upon if the state allows parents to veto the decision. See also *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 74, 96 S.Ct. 2831, 49 L.Ed.2d 788 (1976).

This Court has also spoken eloquently of the child's interest in maintaining a relationship with a parent in the face of a state petition to terminate parental rights. In a case involving children's right to counsel in such proceedings, this Court wrote,

That children have an interest in the outcome of termination actions which is worthy of all the protection afforded the interests of their parents is apparent. The basic human right to maintain and enjoy the relationship which normally exists between the parents and the children is held no less by the children than by the parents.

State ex rel Juv. Dept. v. Wade, 19 Or App 314, 319, 527 P2d 753 (1974), *appeal dismissed* 423 US 806 (1975), *overruled on other grounds* *F. v. C.*, 24 Or App 601, 610, 547 P2d 175, *cert. den.* 429 US 907 (1976). In *F. v C.*, this Court overruled the *Wade* holding that due process always requires appointment of counsel for children in termination cases in favor of a requirement that courts determine the need for children's counsel on a case-by-case basis. 24 Or App at 610. In reaching this conclusion, the Court reaffirmed the importance of children's independent interest in maintaining a legal relationship to their parents:

[Our decision] should not be interpreted as a retreat from the view that as parties in both termination and adoption proceedings children possess rights of which

they may not be deprived arbitrarily. Independent counsel may continue to be necessary under some circumstances--i.e., where counsel can act in the traditional role of an advocate, or where the record produced by the additional parties is not sufficiently complete to permit the court to make a decision based upon the best interests of the child. Counsel should in those cases be provided, either upon appropriate motion or upon the court's own initiative.

Id. More recently, this Court relied on the alignment of the interests of the child and the parent in dependency proceedings to support its conclusion that a child's out-of-court statements are statements of a party opponent and so may be offered by the state without violating the hearsay rule. *State ex rel Juv. Dept. v. Cowens*, 143 Or App 68, 72 (1996) *rev. den.* 324 Or 395, 927 P2d 600 (1996). The Court explained:

When the state files a dependency petition to make the child a ward of the court, it seeks to interfere with the parent-child relationship and therefore to infringe on the child's interest in that relationship. In that sense, the state's position is adverse to the child, and evidence presented by the state to establish jurisdiction is offered "against" the child. That conclusion is not altered by the fact that [the child] sought the protection of the State Offices for Services to Children and Families (SOSCF) and apparently believed that the agency was "on her side." Although a child in a particular case may share an interest with the state in being protected from a sexually abusive home environment, it simply cannot be said that the state represents *all* of the child's interests.

143 Or App at 71-72.

The Oregon Juvenile Code consistently recognizes the importance of the parent and child's shared interest in reunification and the state's obligations to protect that interest. See, e.g., ORS § 419B.090(4)(2006) ("strong preference that children live in their own homes with their own families"); ORS 419B.150(2)(a), 419B.185(1)(b), ORS 419B.340 (state obligations to make reasonable efforts to prevent or eliminate the need to remove a child from her parental home and to reunite parent and child).

When a child's parent wishes to contest a petition to terminate his or her rights, the interests of the children as well as the parents are best served if a trial court hears all of the

evidence, offered by both sides on the two critical issues that a petition raises: whether maintenance of the parent-child relationship at the time of trial is seriously detrimental to the child and, if so, whether termination is ultimately in the child's best interests. *State ex rel. SOSCF v. Stillman*, 333 Or 135, 36 P3d 490 (2001). The barebones testimony of a single DHS caseworker may be sufficient to establish the state's prima facie case for termination when the parent chooses not to contest; indeed, if the parent does not wish to maintain his or her relationship with a child, ordinarily it would follow that the child's interests are served by terminating. However, such testimony certainly does not do justice to the nuances of these complex cases and may well provide an incomplete picture of the parent and child's situation. Where the parent wishes to participate in a trial and seek to convince the judge that the conditions for termination do not exist, the state's obligation to protect the child's interest is best discharged if the judge allows the trial to proceed.

3. Even in cases in which the state can prove grounds for terminating a parent's rights, termination will not always insure permanency for the child; therefore, ordinarily courts should enter a termination order only when particularized evidence shows that it will enhance the child's chances for permanency.

While statutes generally identify termination of parental rights and adoption as the preferred alternative if a child cannot be reunited with his or her parents, see, e.g., ORS 419B.366(5)(b) (court must find that adoption is not an appropriate option before considering permanent guardianship), for some children termination is not the best option. For this reason alone, if a parent resists termination, courts should avoid disposing of the case without a careful inquiry into the circumstances of the individual child, even when the state has proven parental fault sufficient to support a termination petition.

a. A thorough, specific assessment is necessary to determine whether termination of parental rights is the best means of protecting any individual child's best interests.

The Oregon statute that prescribes when DHS must file a petition to terminate parental rights recognizes exceptions to the preference for filing, several of which are based on findings about the best interests of an individual child. ORS 419B.498(2) provides that the agency should not file if, i.a.:

- (a) The child or ward is being cared for by a relative and that placement is intended to be permanent;
- (b) There is a compelling reason, which is documented in the case plan, for determining that filing such a petition would not be in the best interests of the child or ward. Such compelling reasons include, but are not limited to:
 - (A) The parent is successfully participating in services that will make it possible for the child or ward to safely return home within a reasonable time as provided in ORS 419B.476 (5)(c);
 - (B) Another permanent plan is better suited to meet the health and safety needs of the child or ward...

As noted above, the Juvenile Code provisions governing permanent guardianships also explicitly recognize that termination is not the best permanent plan for some children. ORS 419B.365(3)(b), 419B.366(5)(b).

This Court has addressed this issue as well. In *State ex rel DHS v. Keeton*, 205 Or App 570, 586, 135 P3d 378 (2006), the Court discussed the child's continuing bond to the parent as a reason not to terminate. *Keeton* and other cases consider the availability or lack of an identified adoptive home as bearing on the best interests decision. *Keeton*, 205 Or App at 586-87; *State ex rel. DHS v. Meyers*, 207 Or App 271, 285, 140 P3d 1182 (2006); *State ex rel. DHS v. Rodgers*, 204 Or App 198, 223, 129 P3d 243 (2006).

As a number of legal commentators have argued, legal mechanisms other than termination of parental rights can protect children's need for emotional and psychological permanence, and courts should consider them, since preserving children's legal relationship to parents may have emotional and practical advantages, such as eligibility for dependents'

benefits. E.g., Marsha Garrison, *Parents' Rights vs. Children's Interests: The Case of the Foster Child*, 22 N.Y. U. Rev. L. & Soc. Change 371 (1996); Marsha Garrison, *Why Terminate Parental Rights?*, 35 Stan. L. Rev. 423 (1983); Dorothy E. Roberts, *Is There Justice in Children's Rights?: The Critique of Federal Family Preservation Policy*, 2 U. Pa. J. Const. L. 112 (1999). Professor Garrison argues that children's long-term emotional well-being may often be served by maintaining the parent-child tie:

Although a wealth of data, from diverse sources and theoretical schools, has confirmed the importance of the parent-child relationship as a determinant of the child's personality, resilience, and relationships with others, that research has also established that children are capable of maintaining many emotional bonds simultaneously. The strength of a child's attachments is not subject to precise measurement, and a strong attachment with one parent figure does not mean that attachments to other parent figures are weak.

Decades of research have also established that a child's ties to his parents do not lose their importance simply as a result of separation or loss of day-to-day contact. "The parent-child tie . . . can be greatly distorted [but it] is not to be expunged by mere physical separation." Not even the substitution of a parent replacement, for example a stepparent, renders the absent parent unimportant. . . .

An absent parent remains important to the child because the parental relationship is a primary source of the child's identity and self-esteem. . . . The parent also represents the child's history and his unique biological inheritance. . . .

Rather than resolving the child's relationship with a parent from whom the child is separated, loss of contact thus has the potential consequence of making such a resolution far more difficult. Parental absence may enhance the child's tendency toward self-blame or exaggeration; the child may idealize the absent parent, blame herself for disruption in the relationship, or exaggerate the parent's flaws. Such extreme responses impede the child's ability to effectively mourn her loss and maintain her self-esteem. Loss of contact may also inhibit the child's ability to form a realistic assessment of her situation and current, realistic relationships. . . .

Given the importance and nonexclusivity of parental attachments, the endurance of those attachments without day-to-day contact or adequate parenting, and the negative effects of prolonged loss of contact, it is not surprising that researchers studying both children of divorce and foster care have typically reported benefits from parental visitation; no researcher, comparing children who have retained contact with a noncustodial parent and those who have not, has reported that the visited children are worse off.

...As adoption alternatives can resolve the problem of placement impermanence while preserving the benefits of parental visitation, this option would appear to be preferable to traditional adoption. This approach would have the added advantage of conformity with legal practice in divorce, the most common source of family disruption. And when foster parents are unwilling to adopt, this approach may even offer more permanence; if the child must leave beloved foster parents, the “permanent” home she has been offered exposes her to yet another loss, another period of being on trial, another potential rejection.

22 N.Y. U. Rev. L. & Soc. Change at 380-383.

b. Children of incarcerated parents are particularly vulnerable and at risk because of loss of contact with their parents; therefore, courts should take particular care to determine whether terminating parental rights is in the best interests of these children.

More than 15,000 Oregon children have a parent in prison. Children of Incarcerated Parents Project, *Report to the Oregon Legislature on Senate Bill 133* at 6 (2002) (hereinafter *Report to the Oregon Legislature*). As the Oregon Supreme Court recently held, incarceration alone is not sufficient to justify terminating a parent’s rights, although termination is warranted if a particular parent’s incarceration is seriously detrimental to a particular child. *Stillman*, 333 Or. 135, 148-49. This Court has held that in some situations, continuing the parent-child relationship is best for the children of incarcerated parents. E.g., *Keeton*, 205 Or App 570. For some children, especially those who are victims of their parents’ criminal conduct, termination of parental rights may be necessary to protect them and allow them to heal. For many other children, though, a continued relationship with their incarcerated parent can mitigate the trauma of separation from that parent, improve the child’s chances to develop healthily, and preserve beneficial relationships with the extended family.

When children are separated from their parents, they often feel abandoned and guilty. A survey conducted in 2000 by the Oregon Department of Corrections Survey concluded that lack of the opportunity to visit and have phone contact with their incarcerated parents exacerbated the

distress of many children. *Report to the Oregon Legislature* at 4. Ongoing contact with parents may alleviate these problems:

Frequent and ongoing contact with family members reduces the trauma of removal for children, improves their adjustment to placement, and helps expedite permanency, regardless of whether the goal is reunification, adoption, independent living, or adult custodial care. . . . From the time of removal throughout placement and up to the achievement of a permanency outcome (and even after), contact between children and their family members is critical. Although safety and protection are always paramount concerns, it is also critical to continue the child's existing relationships and to maintain family ties.

Tanya Krupat, *Visiting Improvement Efforts: The Importance of Maintaining Family Bonds*, 191 PLI/Crim 167, 170-71 (2002). See also *Report to the Oregon Legislature* at 2; Solangel Maldonado, *Recidivism and Paternal Engagement*, 40 Fam. L.Q. 191, 197-98 (2006); Ross D. Parke & K. Alison Clarke-Steward, *From Prison to Home: The Effect of Incarceration and Reentry on Children, Families and Communities*, 13 (U.S. Dept. of Health and Human Services, Working Paper, 2001). In recognition of these potential benefits to children, communities throughout Oregon are experimenting with programs to help incarcerated parents maintain and improve their relationships with their children. *Report to the Oregon Legislature* at 3.

Given the particular vulnerability of children of incarcerated parents and the varying impact that continued contact with parents has on these children's well-being, it is particularly important that trial courts make decisions regarding termination of the rights of incarcerated parents on the basis of well-developed and complete information.

c. In some cases, termination of parental rights does not facilitate permanency for a child, but simply leaves the child a legal orphan.

Other scholars have argued against termination as the routine path to permanency on the basis that far too often a child whose parents' rights are terminated is not adopted but instead

winds up a legal orphan. Professor Martin Guggenheim, NYU Law School, has conducted one of the most often-cited studies. He wrote:

As this study shows, there is reason to be concerned that federal law has influenced states to take action that puts children in a worse position than they were in before these reforms were passed. Specifically, there is reason to be concerned that, in an increasing number of cases, states are destroying the legal relationship between parents and children for no good purpose and that, as a result, a record number of children have become legal orphans.

Martin Guggenheim, *The Effects of Recent Trends to Accelerate the Termination of Parental Rights of Children in Foster Care--An Empirical Analysis in Two States*, 29 Fam. L. Q. 121, 121-122 (1995); see also Martin Guggenheim, *Somebody's Children: Sustaining the Family's Place in Child Welfare Policy*, 113 Harv. L. Rev. 1716 (2000).

The most recent data suggest that the problem Professor Guggenheim identifies exists nationwide and in Oregon. In 2005, an estimated 513,000 children were in foster care nationwide.² In the same year, 115,407 of these children were identified as waiting to be adopted, either because their permanency goals was adoption or because their parents' rights had been terminated. This was a decline from 130,077 in 2000.³ However, in 2005, only 51,691 children were adopted from foster care nationwide.⁴ The data from Oregon paint a similar picture. The number of children adopted from Oregon's foster care system has ranged from 830 to a little more than 1,000 per year; in 2005, the number was 1,030.⁵ However, in 2005, 3,441 Oregon foster children were waiting to be adopted, while the lowest number in recent years was

² U.S. Admin. Children & Families, U.S. Dept. of Health and Human Services, *The AFCARS Report*, http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report11.htm.

³ U.S. Admin. Children & Families, U.S. Dept. of Health and Human Services, *Children in Public Foster Care Waiting to be Adopted: FY 1999-FY 2005*, http://www.acf.hhs.gov/programs/cb/stats_research/afcars/waiting2005.htm.

⁴ U.S. Admin. Children & Families, U.S. Dept. of Health and Human Services, *Adoptions of Children with Public Child Welfare Agency Involvement by State FY 1995-FY 2005*, http://www.acf.hhs.gov/programs/cb/stats_research/afcars/adoptchild05.htm. This number has ranged between 50,000 and 53,000 since 2000. Id.

⁵ Id.

2,503 in 2002.⁶ In 2005, adoptions of Oregon foster children were, on average, finalized 15.2 months after their parents' rights were terminated.⁷

In many cases, of course, termination of parental rights does provide the best means of protecting a child's right to a permanent, loving home. However, courts cannot assume that this will always be so. Whenever possible, courts should conduct individualized trials on the merits of the allegations of parental unfitness as well as children's best interests. To this end, courts should avoid raising procedural barriers to resolving contested cases on their merits.

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CONCLUSION

The juvenile court judgment should be reversed, the termination of parental rights judgment vacated, and the case remanded to the juvenile court for further proceedings.

⁶ U.S. Admin. Children & Families, U.S. Dept. of Health and Human Services, *Children in Public Foster Care Waiting to be Adopted: FY 1999-FY 2005*, available at http://www.acf.hhs.gov/programs/cb/stats_research/afcars/waiting2005.htm.

⁷ U.S. Admin. Children & Families, U.S. Dept. of Health and Human Services, *The AFCARS Report*, available at http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report11.htm.