

Juvenile & Family Co.
JOURNAL

**Deprived Children:
A Judicial Response**

73 Recommendations

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DEDICATION

The National Council of Juvenile and Family Court Judges dedicates this publication to the goal of preserving and strengthening American families. Only by securing stable and nurturing family structures — with capable and caring parents and safeguarded and well cared for children — can our nation hope to surmount the tragedies of millions of children who are deprived primarily because of family failure.

The efforts of skilled and committed judges, legislators, law enforcement officers, health and child care workers, doctors, teachers, attorneys, volunteers and others involved in the lives of deprived children can do little without a rekindled national awareness that the family is the foundation for the protection, care and training of our children.

As judges, we challenge our colleagues and our government to actively enlist the support of the entire community to join in a concerted effort to preserve and strengthen families. To assure an adequate level of services to protect and provide for our nation's greatest resource — all its children — we are going to have to come to terms with the costs such services require. We, as a people, must do more than talk about the needs of "deprived children."

Answers to the complex problems of failing families can be achieved only by the determined commitment of government and the community, in partnership, to develop and rigorously apply the resources of the public and private sector in this struggle. For the sake of our nation and our children we can do no less.

**DEPRIVED CHILDREN: A JUDICIAL RESPONSE
73 RECOMMENDATIONS**

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INTRODUCTION

THE TRAGEDY OF DEPRIVED CHILDREN

The following recommendations reflect the concerns, from a judicial perspective, of a society struggling to become more responsive to the tragedies of child abuse, neglect and other deprivation. Children who are deprived of their essential needs not only are handicapped in their pursuit of happiness, they are a prime source of future crime and delinquency, and of future abuse of their own children. The judges of the Juvenile and Family Courts are particularly aware of these deprived children. They see them every day in their courts. They listen to their sordid descriptions. They read their social analyses and their psychological workups. And, they hear proposals for helping them.

The Council's Metropolitan Court Judges Committee, comprised of judges from the nation's forty largest cities, have debated these Recommendations extensively. The Council's Boards of Trustees and the membership have approved them. The judges seek to offer their best thinking, based on extensive experience, to reduce this deprivation of children and to provide a framework to solve many of the problems presently encountered.

Who Are They?

Deprived children are children without adequate parental or custodial care or control. They are neglected by not being provided adequate food, clothing, shelter, medical care, supervision, education, protection or emotional support necessary to insure physical, mental or emotional health. They are abused physically and sexually or not protected from such abuse by parents, custodians or others. They suffer emotional harm by verbal harassment, disrespect and denial of self-worth, unreasonable or chronic rejection, and failure to have provided the necessary affection, protection, structure and sense of family belonging. They suffer severe physical and emotional damage from family violence, unreasonable corporal punishment, alcohol and substance abuse, and sexual or other exploitation — often by those outside their family but more tragically and commonly in their own home by their own natural parents.

Children requiring foster care have most often suffered deprivation. Children who are habitually truant, or who have run away from home, or are homeless or chemically dependent are also deprived and at risk of being exploited for prostitution, pornography, theft or drug trafficking. Chronically incorrigible children — those who are found so unreasonably disobedient of the proper guidance or protection of parents or guardians that custodial supervision is called for — must also be considered to be deprived and at-risk.

Whether the harm is caused by a child's parent or family, by an acquaintance or stranger, or by the legal and institutional service systems, the problems are pervasive, most serious, and not open to easy solutions. A large proportion of millions of abused or neglected children are never reported. The reports of tens of thousands more are mishandled. Thousands move through the courts every year, and the judges see them. They see the mothers and the fathers. They hear about the neglect and the drinking, about the vicious punishments and the failure to support, and about the sexual demands of fathers. They hear of parents who have never learned how to bathe a child, when to take a child to a doctor, or what a child's nutritional requirements are.

The judges know that too often the processes of the system can exacerbate

the abuse by its delays, procedures and rules which are insensitive to the feelings, perceptions and fears of children. The judges also know the resources in their communities are used inefficiently or are lacking. They know that agencies may override the rights of children in their zeal of help them, taking them out of their homes on mere assertion, placing them in foster homes, sometimes of another culture or at a distance from family, school and friends. They know that the coordination among social agencies, law enforcement officers and prosecuting attorneys, and divisions of the court is insufficient to balance the needs and rights of deprived children, their parents and the community. The judges know also that their own authority is often limited.

Increasing Numbers

It is estimated that as many as four or five million children are neglected or physically or sexually abused each year, with an additional two million vulnerable as runaways or missing.¹ The official number of abuse and neglect cases for 1984 was over 1.7 million.² Reported cases increased 156 percent between 1976 and 1984, a 20 percent annual increase.³ Reports of child sexual abuse increased 58 percent during 1984.⁴ Yet only one of five known cases of abuse or neglect are made known to child protection agencies.⁵ Studies of all 50 states document that not only are reports of child abuse on the rise, but so too are the actual incidents of abuse.⁶

It is surprising how very few cases of child abuse or neglect ever come before the court. National statistics on children who have been abused or neglected show judges see only an average 3.4 percent of minor injury cases, 8.3 percent of major injury cases and 15.4 percent of sexual abuse cases.⁷ By national averages, juvenile and family courts see only about 18 percent of the total abuse and neglect caseloads. About 172,500 dependency cases were before the courts in 1982.⁸ This is in addition to 1.3 million delinquency cases in which the actual cause of the problem often could be attributed to previous abuse and neglect.⁹ The fact emerges that our society, by its deprivation of children, is raising criminals.

Delinquency and Deprived Children

Family violence and child abuse are primary causes of delinquency, particularly violent offenses. Studies have indicated astounding correlations between child abuse and deviant behavior among violent juvenile delinquents and among adults who had committed violent crimes.¹⁰ Most violent criminals have been severely physically abused as children. This connection between a child's history of neglect or abuse and subsequent delinquency, crime and other problems has been mostly ignored by our juvenile justice and social service systems. Those who experience violent and abusive childhoods are more likely to become child or spouse abusers than those who have not.¹¹ Child abuse is more prevalent in low socioeconomic status families,¹² but family violence, abuse and neglect can be found across the spectrum of society.

Teenage Parents

Children of teenage parents are most at-risk. Data indicates that infants born without the necessary prenatal care, particularly those born to black or teenage mothers, incur the greatest risks to survival. Today 58 percent of all black children are born out of wedlock.¹³ The cost to society of sexually active children who are ill-prepared for the often undesirable consequences of such relations is high. Venereal disease, unwanted pregnancy, suicide, physical risks to

mother and child during pregnancy and at birth, abortion, failed marriages, and most certainly, a great potential for future abuse, neglect and other deprivations are too often the tragic result. Society has limited resources to deal with the risks inherent in immature and irresponsible sexual relationships. National support is needed for the position that intimate sexual activity among children should be appropriately discouraged, both by their parents and by a society which inculcates much of children's values through advertising, television, movies and music. Efforts to increase public awareness, parental support, appropriate sex education, and counseling children on reasons for sexual continence without inhibiting human intimacy are needed.

Characteristics of Abuse and Neglect

The number of children reported as being abused or neglected doubled from 1976 through 1982.¹⁴ Less than half of those reports were substantiated by admission of the caretaker or by appropriate evidence.¹⁵ Half of all abused children are under 3 years of age and 90 percent of deaths from abuse occur before a child is one year of age.¹⁶ Incidents involving older children are less likely to be reported. Cases often perceived as less serious by child protective agencies, such as neglected teenagers, are not receiving adequate attention.¹⁷

A 1976-1982 national study showed that 64 percent of all reported cases involved child neglect; 25 percent involved physical injury; and 17 percent involved emotional abuse or neglect.¹⁸ In 1983 almost 10 percent of reported cases involved child sexual abuse.¹⁹ Due to recent public awareness and mandatory reporting laws, many communities are now experiencing increases in sexual abuse cases.

Infants and small children are most often affected by neglect. Sexual, physical and emotional abuse increases as children grow older.²⁰ The younger the parent, the greater the chances are for abuse.²¹ Of all maltreating caretakers, 97 percent are legal parents and 85 percent are natural parents.²²

Abusing or neglecting families are more than twice as likely to be headed by a female, and four times more likely to be receiving welfare assistance.²³ Neglect is often related to the psychological unavailability of the parent to meet the needs of the child as well as economic difficulties. Abusing families have in general an average income. Male parents are associated more with physical injury and sexual abuse, female parents more with neglect.²⁴ Adolescents experience three times more sexual abuse, but only slightly more physical injury and emotional maltreatment than young children.²⁵

Sexual Abuse

National data does not distinguish among the various degrees and types of child sexual abuse. One study concludes that 10 percent of males and 25 percent of females have had sexual contact or penetration as children.²⁶ Of reported child sexual abuse, 85 percent of the victims are female and 15 percent male.²⁷ About 80 percent of all perpetrators are male; over 56 percent are perpetrated by natural parents and 77 percent by legal parents.²⁸ Only about 16 percent is attributable to relatives and only about 6 percent to strangers.²⁹ Sexually abusive families, when compared to all abusive or neglecting families, have higher incidences of health problems and alcohol, drug and spousal abuse.³⁰

Economic and Social Costs

The immediate economic costs to society of child abuse and neglect are staggering. Initial costs for child protective services for each case opened are estimated to average \$10,000.³¹ Long-term costs for psychological or medical care for sexual abuse or severe neglect and abuse cases can be much higher.³²

Temporary foster care costs \$5,000 to \$15,000 a year. Home-based services average \$50 a visit and 40 visits a year.³³ At a conservative estimate of only \$15,000 in costs per average case, and counting only the 650,000 cases actually serviced nationwide, annual costs amount to \$10 billion. This does not include substantial law enforcement, hospital or court costs, nor the costs of future crime and child abuse perpetrated by the abused victim. The long range costs of failure to prevent, intervene and treat child deprivation are beyond calculation and have not yet received appropriate attention.

As adults deprived children are more likely to be on welfare, to have job difficulties, to have mental health problems, and to over-utilize the health care system.³⁴ Among deprived children, learning disabilities and substance abuse are more prevalent as are delinquency, truancy, running away and other problems. But, as Dr. Ruth Kempe writes, "By far the most disturbing and consistent finding of observation of young children who have been abused and neglected is the delay, or arrest, of their development."³⁵

Emotional consequences of neglect and abuse fall into one of two patterns of behavior — withdrawal or aggression. Boys tend to react aggressively. Girls tend to show more inner conflict and anxiety. Studies of physically abused children show 30 percent to be retarded or to have neurological deficits.³⁶

Standards for Child Protection

It was only in the early 1960s that medical diagnosis of child abuse as "the battered child syndrome" began. It was not until the 1980s that sexual child abuse, emotional abuse or neglect, and missing, exploited and runaway children came to the attention of the public. Governmentally provided child protection services began with the Social Security Act in 1935. Until then, privately funded "societies" were the primary intervenors and protectors of children.³⁷ As government intervention through child protection services and the courts has increased, private voluntary child welfare efforts have decreased. In recent years, possibly due to decreasing public resources, the use of volunteers, such as Court Appointed Special Advocates (CASAs), has begun anew.

Child care and protection standards and practice, such as decision-making criteria for removal of the child from the home, are often not well defined. A frequent complaint is that caseworkers are left to make too many decisions alone, without adequate supervision or guidelines. Case-by-case, jurisdiction-by-jurisdiction, disparities and variances of acceptable treatment and intervention levels abound. Nor are the many emotional needs of children always clearly understood by the intervening agencies. The assurance of a constant loving person in a child's life is critical, but often missing in the intervention process. Making available a constant caretaker with the child preferably remaining in his own home or finding a permanent home, rather than growing up in temporary foster homes, is crucial. But perhaps the most important concern remains the provision of an adequate level of services and treatment for deprived children.

Purpose of the Recommendations

Deprived Children: A Judicial Response is an effort to draw upon the experience and expertise of those judges who exercise jurisdiction over and who are involved daily in the lives of "deprived" children — those children who for many reasons must or should be brought under the custody of the court. Most juvenile and family courts are vastly different in scope and operation than just a decade ago. Measurement of current caseloads indicates a far greater number of family problems before the courts than ever. The huge increase in abuse and neglect, in custody and child support, and in foster care and family reunification matters can be partially attributed to such factors as higher divorce rates and

drug or alcohol abuse. But federal legislation such as the Child Welfare and Adoption Assistance and the Child Support Enforcement Acts also has had a significant influence on courts. These federal programs look to local juvenile and family courts for leadership in reducing institutionalized foster care, providing permanent families and expediting child support.

Require and Review Services

Increased judicial involvement is critical to improving the effectiveness of the overall child protection system. The public reasonably expects that courts are ultimately in control of what happens to the lives and liberties of the children and families who come to the attention of public authorities. The judges agree that they must exercise appropriate judicial leadership, responsibility, authority and accountability. They speak out on the basis of their concern and commitment as judges assigned or elected to family and juvenile courts, now often divisions of general trial courts. Their recommendations are intended to be helpful to community decision-makers, including state and local legislators, law enforcement, child protection and other social service agencies, attorneys, judges and the private sector. The key to solving immense problems is the establishment of a working and effective partnership of courts and public agencies with the full involvement of business, labor, private foundations and agencies, and citizen volunteers. Also essential to lasting solutions will be an emphasis on prevention and sensitivity to the rights of the individual child, the family and the rights and responsibilities of the parent as well as those of the courts, agencies and legislatures.

I. ROLE OF JUDGES

Needs of Children

1. Judicial Leadership
2. Authority to Require Services
3. Agency Cooperation
4. Public Awareness
5. Liaison With Schools
6. Resource Needs
7. Constituency for Children

Analysis

The public reasonably expects the judiciary is, or ought to be, ultimately accountable for what happens to abused or neglected children who are reported to or handled by governmental agencies. Yet juvenile and family court judges know that they are often being held accountable for the operation of statewide or local service systems which in reality are subject to limited judicial control and review. The courts should have the necessary order-making, review, monitoring and enforcement authority over the entire child protection process, from the initial report to intake and investigation, to intervention and treatment plans, through termination and permanent adoption or preferably, effective and responsible family maintenance or reunification. The nation's judiciary must be a responsible force for the improvement of child protection and treatment services.

Lack of coordination among various child-serving agencies and between child-serving agencies and the courts requires the development of jointly agreed upon decision-making criteria and treatment procedures. In each jurisdiction the judicial role should be clarified, and expanded resources made available to juvenile and family courts and the service agencies so they can more adequately meet the needs of deprived children.

The courts must have as their concern the provision of appropriate and effective protection for millions of abused, neglected or otherwise deprived children. Judges must exercise leadership and promote cooperation among the various systems which handle deprived children. They must protect the rights of all parties and insist upon appropriate intervention and treatment of each child. It is a difficult task.

1. Judicial Leadership

Judges must provide leadership within the community in determining needs and obtaining and developing resources and services for deprived children and families.

The judicial responsibility for impartiality does not preclude a judge from providing leadership within the community. Judges should examine their community's child protection system and process — including their own courts — to assure:

- appropriate prevention, detection, investigation, interviewing and reporting under uniform practices and procedures;
- clear, concise and purposeful procedures for substantiating, screening and servicing all reported abuse and neglect;
- adequate standards for identifying at-risk children and providing needed intervention and services;
- the use of day care, parenting training, homemaker and other services to keep families together;

- the availability of long-term, in-depth services and treatment for children and families, whether reunited or separated; and
- adequate facilities, trained parents and volunteers, adoption programs, and treatment within institutional or foster care settings.

Judges should promote cooperation among public and private agencies to provide needed facilities and resources. Development of citizen volunteers and auxiliary programs to serve the court, the agencies, and children and families should be actively encouraged.

2. Authority to Require Services

Juvenile and family courts must have the clear authority, by statute or rule, to review, order and enforce the delivery of specific services and treatment for deprived children.

The public looks to its court system to resolve disputes and to order enforceable and specific remedies. Society expects the judge to be an impartial decision-maker when a dispute and remedy involve the best interests of a deprived child under the jurisdiction of the court. It expects the provision of services or treatment necessary to protect and treat that child. In the interests of deprived children, juvenile and family courts must have the authority to order, enforce and review the delivery of specific services and treatment for deprived children, subject to due process and the presentation of sufficient evidence to support appropriate judicial intervention.

3. Agency Cooperation

Judges must encourage cooperation and coordination among the courts and various public and private agencies with responsibilities for deprived children.

Judges should work informally with members of the bench, bar, community and various agencies to establish unified procedures and to develop necessary resources.

Juvenile and family courts, probation services and child protection and health and mental health agencies should coordinate the management of services and treatment available and provided to deprived children. The court must bring about cooperation between itself and the various agencies involved.

4. Public Awareness

Judges and court personnel must make every effort to increase media and public awareness of the complex and sensitive issues related to deprived children.

The complex and often competing interests of deprived children, parents, guardians, social workers, attorneys, the law and the public interest need to be thoroughly explained to the public. Within the bounds of specific confidentiality requirements, judges should be available to provide general information on law and procedure. The media should be encouraged to understand the juvenile and family courts' emphasis on the "best interests of the child."

Judges must participate in community education programs on children's issues and court-initiated forums and training on abuse and neglect issues. The media should be urged to cover such programs and to assist in public education.

5. Liaison with Schools

Juvenile and family courts must maintain close liaison and encourage coordination of policies with school authorities.

There should be continuing communication between the court and school authorities for the protection and best interests of children. Judges should be supportive of school authorities in efforts to better serve children, particularly deprived children, including:

- Identifying and reporting learning disabled, abused and neglected, and problem children earlier and providing special classes, programs and counseling;
- Coordinating control of school suspensions and absences with the court;
- Offering parenting classes for both children and parents;
- Providing drug and alcohol education;
- Increasing use of school facilities for day care and child supervision;
- Developing special programs for at-risk children;
- Reducing dropout and truancy levels through better motivation, teaching, alternative education and enforcement programs;
- Initiating law-related education;
- Teaching moral and social values; and
- Teaching students how not to be victimized and other prevention efforts.

6. Resource Needs

Judges must exercise leadership in (a) analyzing the needs of deprived children and (b) encouraging the development of adequate resources to meet those needs.

In order to improve children's services, each community, under leadership of the juvenile and family court, should analyze the needs of children and encourage legislative, executive and taxpayer support for adequate resources for:

- Preventative programs and treatment facilities and services, such as day care, early childhood education, homemaker services, crisis nurseries, aftercare, mental health, foster care, school-located services, self-help groups and parenting training; and
- Cost-effective programs to limit excessive or lengthy out-of-home placements of children.

7. Constituency for Children

Judges should take an active part in the formation of a community-wide, multi-disciplinary "Constituency for Children" to promote and unify private and public sector efforts to focus attention and resources on meeting the needs of deprived children who have no effective voice of their own.

A "Constituency for Children" should:

- Identify and prioritize the treatment needs of children;
- Utilize available public "Children's Trust Funds" to finance prevention and treatment programs;
- Promote programs to help children achieve their full potential;
- Encourage cooperation and coordination and eliminate "turf-guarding" among public and private agencies;
- Evaluate what has and has not worked in addressing the needs and problems of children;
- Heighten public awareness of children's needs through the involvement and skills of community and business leaders;
- Enhance the quantity and quality of volunteer efforts for children;
- Establish realistic goals for meeting children's needs and work toward those goals; and
- Initiate a full, open and working partnership between the public and private sectors to benefit children.

II. COURT PROCEDURES

Judicial Issues

8. Court Stature
9. Sensitivity to Children
10. Initial Jurisdiction
11. Coordination of Systems
12. Priority for Abuse Cases
13. Manageable Caseloads
14. Attorney Training
15. Court Appointed Special Advocates
16. Citizen Advisory Boards

Legal Issues

17. Support Person for Child
18. Victim and Family Input
19. Evidentiary and Procedural Rules
20. Protective Orders

Analysis

A child's physical or mental health can be threatened through abuse or neglect by parents or through the insensitivity of rigid legal or administrative systems which have no regard for delay as a detrimental impact upon a child's life. The justice system tends to be over-formalized at the expense of the child victim.

Sensitivity to the needs of child victims, evidentiary and procedural reforms, specially trained attorneys and court workers, special volunteers, priority for abuse cases, reasonable caseloads and victim and family participation in the disposition of cases are required. The judicial process must reflect a greater awareness of the child as a child, and the child's treatment and service needs. In all cases of abused and neglected children, including those which require prosecution of the accused, the juvenile and family court must have initial jurisdiction to protect the interests of the child victim and ensure that services and treatment are provided. Protective orders must be available on a 24-hour basis.

8. Court Stature

Juvenile and family courts, to be effective, must have the same stature as general jurisdiction courts. Judicial assignments should be based on expressed interest and competence and be for a substantial number of years.

Courts exercising jurisdiction in juvenile and family matters should be equivalent in rank to trial courts of general jurisdiction to reflect their essential role in our society. Judges of juvenile and family courts should be elected or selected on the basis of their professed interest and competence in juvenile and family matters and assigned for a substantial number of years to insure adequate training and experience of the judge and control of the court. Where possible, the same judge should be assigned continuing review over an individual child and his family, foster care, and treatment progress to assure continuity.

Administrative procedures requiring rotation of judges to the juvenile and family court should also take into consideration professed interest and competency. The need for judicial continuity is nowhere greater than in this complex and specialized court.

9. Sensitivity to Children

All judges of all courts must ensure sensitivity in the courtroom and encourage sensitivity out of the courtroom to minimize trauma to the child victim.

The legal system must treat children with special courtesy, respect and fairness. Judges must work with attorneys, law enforcement, child protection agencies and state and local funding sources to improve facilities, services and procedures affecting children who appear in court. High priorities must be given to abuse and neglect cases, 24-hour emergency services, reduction of delays, and coordination with adult courts. Child care and counseling, child-size furniture and waiting or visitation rooms for parents and children must be available. Frequent recesses, confidentiality for name and address of the child, removal of courtroom observers during sensitive testimony, separation of victim and accused, testimony in chambers through closed-circuit television, expeditious return of evidence and other victim services should be assured to all children in court.

10. Initial Jurisdiction

Juvenile and family courts should have immediate and primary jurisdiction over children who have been allegedly abused to ensure protection and treatment for the child victim, notwithstanding pending criminal proceedings.

Immediate jurisdiction of the juvenile and family court over cases of alleged child abuse assures the protection of the abused child. Through initial intervention, for example, repetitive interviews by law enforcement, prosecution and the various attorneys can be limited. The court can immediately protect the child by a protective order. Necessary services and treatment can be provided as the first priority of the court. In cases where the juvenile and family courts' initial protection has been provided, the criminal adjudication process can proceed.

11. Coordination of Systems

Adult prosecution arising out of an allegation of abuse should be coordinated with juvenile and family courts.

The division of jurisdiction between adult criminal courts and juvenile and family courts often means that not enough concern is shown for the child victim when the prosecutor interviews the child and builds a case focused on obtaining a guilty verdict and punishing the perpetrator. There must be coordination to prevent duplications and inconsistencies of the sentences and orders of the various courts which may be involved in order to reduce the present and future trauma to the child victim. Since the hurt and the healing of the child is as important as the punishment of the perpetrator, the coordination should be by the juvenile and family court which can and should be the "hub of the wheel," coordinating the procedures of law enforcement officers, caseworkers, prosecuting attorneys, and sentencing judges.

12. Priority for Abuse Cases

Priority must be given to abuse and neglect cases in the trial court as well as in the appellate process.

Courts, through appropriate administrative and docketing processes, should give priority to petitions involving deprived children over other civil cases. Hearings, trials and appeals on child custody matters, particularly those related to the status of abused and neglected children, should be conducted as rapidly as is consistent with responsible decision-making and the child's sense of time.

13. Manageable Caseloads

Juvenile and family courts must have funding to allow reasonable judicial caseloads and an adequate number of judicial officers to assure the necessary time for each case.

Unreasonably large caseloads in juvenile and family courts impede justice for the deprived child. As the number of court interventions, placements or reviews of the status of deprived children increases, it will be necessary for each court to have an adequate number of court officers, attorneys and staff to assure sufficient time and reasonable caseloads.

Administrative or presiding judges of large juvenile and family courts should assure that sufficient court time, facilities and resources including competent judges and court officers, are assigned to custody and dependency matters. Juvenile and family court judges, particularly, must have time away from the courtroom to provide leadership within the community on behalf of deprived children.

14. Attorney Training

Court-appointed and public attorneys representing children in abuse and neglect cases, as well as judges, should be specially trained or experienced.

Successful completion of appropriate training and adequate experience in juvenile and family law should be prerequisites to appointment. A curriculum for a general understanding of child development and treatment resources, as well as specific legal skills and knowledge of relevant statutes, cases, court rules, interviewing skills, and special needs of the abused or neglected child should be developed and required for all attorneys and judges undertaking such cases. Continuing legal and judicial education programs should provide such special training.

Juvenile and family courts should not be the "training ground" for inexperienced attorneys or judges. Competent legal representation for all parties is crucial. District attorneys, city attorneys, public defenders, child protection agencies, the private bar and others who assign cases to attorneys should assign, whenever possible, adequately trained and experienced attorneys to cases in the juvenile and family court.

15. Court Appointed Special Advocates

Court Appointed Special Advocates (CASAs) should be utilized by the court at the earliest stage of the court process, where necessary, to communicate the best interests of an abused or neglected child.

A Court Appointed Special Advocate (CASA) is a trained volunteer appointed by the court to be an advocate for the best interests and well-being of the child before, during and after court proceedings. Juvenile and family courts should initiate the use of such volunteers to assist them in protecting deprived children.

A trained CASA can devote more time and attention to an individual case than an attorney and can assist the court in its determination. The CASA should make an independent investigation and recommend to the court actions which would be in the best interests of the child. Access to the assistance of a qualified attorney should be available to the CASA throughout the legal process.

16. Citizen Advisory Boards

Juvenile and family courts should consider the use of judicially appointed citizen advisory boards to assist the court with independent screening, monitoring and review of individual placements, services, facilities and treatment.

Juvenile and family courts should consider the use of Citizen Advisory

Boards or other types of independent and qualified panels to assist them in assuring adequate review of all screening, monitoring and placements. Such volunteer assistance can be an asset to a judge, provided the court is the appointing authority and such review boards operate under the judicial branch of government as part of an independent review process. Separate agency-initiated review systems and procedures are also necessary, but are not a substitute for continuing independent judicial review of placement, services and treatment.

17. Support Person for Child

A person supportive of the child witness should be permitted to be present in court and accessible to the child during the child's testimony without influencing that testimony.

The presence of a person providing emotional support for the child victim-witness may be necessary in obtaining testimony with a minimum of psychological harm to the child. Judges should assure that proceedings are conducted in a manner sensitive to the child and do all they can to lessen the trauma to the child.

18. Victim and Family Input

Family members should be permitted to offer suggestions or testify in aid of the disposition of the case.

To the extent possible, the court should hear or be made aware of the dispositional concerns of the child victim and family. The child victim, family members and other persons affected should have the opportunity to attend and testify at disposition hearings. In addition to the deprived child, grandparents, extended family members, and foster parents are among those who may be affected by dispositions in abuse and neglect or criminal cases. Although they are not "parties" with standing for purposes of required notice and the legal right to participate, they often represent service resources and are sources of relevant information. At the request of any party or the court, such persons may be permitted to testify as to the disposition. Caution should be exercised to prevent "fault-finding advocacy" which would polarize partisanship and delay or prevent family reunification.

19. Evidentiary and Procedural Rules

Evidentiary and procedural rules consistent with due process must be adopted to protect the child victim from further trauma.

Reforms must be made to improve the prosecution in criminal court of child abuse and neglect and to protect the abused or neglected child victim from further trauma in the courtroom. Measures for consideration include:

- Expanding use of hearsay and exceptions for out-of-court statements;
- Granting explicit judicial authority to control the examination of child witnesses;
- Lengthening statutes of limitations for crimes involving children;
- Removing the requirement for proof of non-consent by the child;
- Presuming the competency of the child witness or allowing the child to testify first with the judge to weigh the child's competency to testify;
- Using leading questions and narrative style testimony;
- Eliminating corroborative evidence requirements for a *prima facie* case;
- Modifying marital, medical and psychological privileges of confidentiality in cases involving the abuse of children;
- Allowing evidence of established patterns of prior sexual acts by the abuser;

- Using, where appropriate, video-taped or closed-circuit television statements by the victim.

20. Protective Orders

All courts should be granted authority to issue protective or restraining orders to prevent further abuse. Such orders should be freely used and vigorously enforced.

The use and enforcement of protective orders by the court is necessary to prevent additional trauma to a child. Statutes and rules should specifically authorize courts to make applicable to the abused, the abuser or others the following orders:

- Vacate or refrain from visiting the home;
- Limit or forbid contact with victim, other siblings, or any child;
- Maintain limited or supervised visitation with child;
- Prohibit physical, disciplinary and sexual contact;
- Obtain a mental health or substance abuse evaluation and participate in indicated treatment;
- Stay away from child's neighborhood, school, playground;
- Pay support for child or other family members, and costs of treatment;
- Refrain from use of alcohol and drugs, and obtain treatment; and
- Exhibit other definitive positive behavior in the best interests of the child.

Statutes and rules provide courts with the power to vigorously enforce these protective orders by fines, contempt proceedings, or other appropriate means.

III. DETECTING, REPORTING AND EVALUATING

Detection and Reporting

21. Identifying Deprived Children
22. Prompt Reporting
23. Signs of Abuse and Neglect
24. Voluntary Treatment
25. Follow-up Reports

Evaluation

26. Central Registry
27. Evaluation at Intake
28. 24-hour Availability
29. Coordinated Planning
30. Review of Emergency Removals
31. Removal of Offender
32. Child Interviews

Analysis

Reports of abuse and neglect are often not confirmed nor the child assisted because of an inability of child protection agencies to properly investigate. The reasons appear to be lack of available staff, programs and budget. When increased demand upon an already overburdened system cannot be handled, agency perception that some reports can be ignored or downgraded creates additional tragedy for the child who has been abused or neglected.

System improvements can enhance the detection of child abuse and neglect in each community and are often capable of being made without the expenditure of large amounts of money. These include:

- *Developing good practices and clear procedures for deciding when and how to report, screen, investigate and substantiate cases at the child protection agency, law enforcement, health, and school levels;*
- *Encouraging abusers to report themselves to agencies which can help them and protect the child victim;*
- *Enhancing public awareness and providing professional training directed at detecting and reporting of child abuse, neglect and other deprivation;*
- *Ensuring better handling of reported cases and follow-up responses;*
- *Coordinating investigation protocol and intake practice among law enforcement, prosecution, child protective agencies and the criminal and juvenile courts in order to minimize trauma and increase help for the child;*
- *Improving correlation of activities of child protection and other public and private agencies within the community, coordinating all available resources;*
- *Timely judicial review of emergency removal of a child from home, joint agency assessment and planning, and broader analysis of a child's problems at intake.*

21. Identifying Deprived Children

All persons who work with children on a regular basis should be trained to recognize indicators of abuse, neglect or significant deprivation.

All public and private agencies and citizens must share information to detect

at-risk children and to prevent abuse and neglect. Training must be required for all professionals in contact with children on a regular basis.

School personnel, particularly teachers, counselors and nurses, health and human service professionals and all others who work with or are regularly in contact with children should be aware of the indicators of abuse and neglect, and identify such children for child protection agencies. Children with severe parental conflicts, or appearing to be physically, sexually or emotionally abused, or neglected, require immediate evaluation.

Hospitals, health facilities and the medical, legal and social service professions must be encouraged to offer instruction and information to the community. All child care workers should be screened and trained, and facilities monitored. Child protective services or another appropriate agency should be required by law to review regularly child care practices and facilities in each community.

22. Prompt Reporting

All persons working with children must promptly report known or reasonably suspected abuse and neglect. Communication and witness privileges must not impede the reporting, investigation and adjudication of alleged child abuse.

Although reporting of child abuse or neglect is required in each state, it is apparent that compliance is far from adequate. Prosecutors must insist upon full compliance with all reporting requirements.

Where present statutes do not specifically indicate, prompt reports of child abuse or neglect should be required from a broad range of persons who, in their professional or official capacity, know or reasonably suspect abuse or neglect. Such persons should be advised of and acknowledge the established reporting procedures and express their intent to report as required. They also should be immune from civil and criminal liability for such reporting, but subject to appropriate sanctions if they intentionally fail to report, falsely report, or fail to cooperate with the court, the district attorney, or the appropriate child protection agency.

Statutes and court rules governing privileged communications should be reexamined to assure that such information is made available and acted upon to protect the child. However, it is not intended that confidential court records of juvenile and family court proceedings involving alleged child abuse be used in any manner which would be detrimental to the best interests of the child victim, as determined by the juvenile and family courts.

Standardized child abuse and neglect detection and reporting procedures must be developed and implemented by all hospitals, clinics and health or service providers, including the mental health profession, and all governmental agencies.

23. Signs of Abuse and Neglect

Appropriate governmental agencies, schools of medicine and social work, and the media should widely publicize in each community reliable indicators of vulnerable families, child physical and sexual abuse, and child neglect.

The American Medical Association's *Diagnostic and Treatment Guidelines* indicators³⁸ deserve broad dissemination.

Indicators of Vulnerable Families

- Socially isolated families - no external support systems
- Families where husbands and wives resort to violence on one another
- Individuals who were maltreated as children
- Parental expectations inconsistent with the child's developmental abilities
- Alcohol and drug misuse, inadequate housing and mental illness

Indicators of Physical Abuse in Children

- Injuries are more severe than those that can be reasonably attributed to claimed cause
- Bruises and welts on multiple body surfaces
- Bruises forming patterns often resembling the shape of the article used to inflict the injury
- Burns - cigars, cigarettes, immersion or patterned burns such as an electrical appliance
- Fractures - multiple or in various stages of healing
- Abdominal injuries which are unexplained
- Angry, isolated, or destructive children
- Displaying abusive behavior toward others

Indicators of Physical and Sexual Abuse in Children

- Pain in genital area
- Difficulty in walking or sitting
- Any sexually transmitted disease
- Wide range of psychological reactions such as:
 - fighting with a relative, friend or teacher
 - engaging in excessive masturbation or highly sexualized play

Indicators of Physical Neglect in Children

- Malnutrition
- Poor hygiene or inadequate clothing for circumstances
- Lack of appropriate adult supervision for age
- Failure to receive adequate medical attention

24. Voluntary Treatment

Abusive or potentially abusive persons should be encouraged to acknowledge their problem, seek help and participate in voluntary treatment for themselves and their families.

Successful treatment of the family and particularly the child victim often must be based on the involvement of the offending parent. Stays of prosecution, continuances of adjudication, confidentiality of legal records or incarceration contingent upon treatment outcomes should be used to protect the self-reporter's due process rights and to set realistic treatment or reunification goals in the best interests of the child.

25. Follow-Up Reports

Agencies must respond immediately to reports of child abuse and neglect and provide follow-up information to the reporter.

Too often reports are not properly investigated and serviced. To assure better coordination of services and treatment, child protection agencies must be required to provide follow-up on cases of reported child abuse.

Follow-up reports should include such information as the alleged victim's and perpetrator's names, relationship (if any), actions taken and status of the case, placement of victim, pending or actual criminal or civil action, medical or psychological diagnosis, casework plan and caseworker's name and telephone number. Recipient agencies must not be allowed to dismiss a report without further followup with the reporter. If acting in a professional capacity with the child, (for example, the family physician) the reporter must be consulted on appropriate intervention and treatment strategies.

26. Central Registry

A central registry of complaints of alleged abuse and neglect must be developed and maintained in each state with mandatory reporting of data from child protection and health agencies, as well as law enforcement and school officials, with access on a demonstrated "need to know" basis.

All courts, law enforcement, prosecutorial and child protection agencies must have access to a central registry of abuse-neglect cases, for the purposes of investigation and substantiation of suspected abuse and neglect. The registry should include reports of all missing children, as well as all reported, investigated, adjudicated or pending cases of abuse, neglect or other deprivation.

Law enforcement agencies must conduct a preliminary investigation immediately upon receipt of a missing child report. If the child is missing, descriptive information must be entered on national and local crime information center computers and cancelled after the child is located. To assist in locating missing, abducted, or runaway children, an effective identification system, workable on a national basis, should be established for all children.

It is essential to the operation of a central registry system that those granted access to the data be mandated to respect its confidentiality and assist in keeping it current.

27. Evaluation at Intake

A thorough assessment of a child's problems and family is needed at all public and private intake facilities.

All public and private child intake agencies should be required to conduct a comprehensive initial investigation and assessment of a child's problems and the child's family relationships. Intake agencies, when handling children, should attempt to ascertain the relation of the presenting problem to broader problems of the child and the family.

If the intake agency is not equipped for such evaluations, follow-up assessments by qualified agencies should be initiated. For example, a child found intoxicated should not be released by an intake agency (hospital, detention or police) until arrangements for further follow-up assessment for alcohol/drug problems have been made. Improved detection and treatment of child abuse, drug and alcohol abuse, fetal alcohol syndrome and other physical and mental injury to children is dependent upon interagency communication and coordination together with proper follow-up.

28. 24-Hour Availability

Child protection services and facilities should be available 24-hours a day to assure that allegations of serious neglect or abuse can be assessed and protection provided.

Each community should have a trained multi-disciplinary child abuse assessment team available on a 24-hour a day basis. Such teams should immediately assess reports of child abuse and facilitate a medical examination.

Reporting, investigation, treatment and emergency court intervention required to cope with the tragedies of child abuse and neglect must be provided at all times. Since a great proportion of child abuse occurs in the evening hours and on weekends, a flexible system of providing 24-hour child protection services would effectively serve the interests of families and children.

29. Coordinated Planning

Reports of abuse and neglect should be evaluated immediately and, where necessary, a coordinated plan of action should be developed by law enforcement, the child protection agencies and the prosecutor.

Procedures for coordinating the efforts of law enforcement, child protection, medical personnel and prosecutors should be developed. Joint assessment should lead to a coordinated plan of action to protect and treat the abused child.

30. Review of Emergency Removals

Emergency removal of the child from the home must be subject to prompt judicial review.

When a child is removed from home by a law enforcement or child protection agency a judicial hearing must be held the next court day, for the purpose of entering a court order to continue removal or to return the child home.

31. Removal of Offender

The alleged offender, rather than the child, should be removed from the home, whenever appropriate.

When family members must be separated as the result of abusive behavior, it is preferable for the child victim to remain at home. Depriving a child of his or her own bed, house, school, neighborhood and friends creates additional trauma and disruption. A protective order of the court should assure the alleged perpetrator's exclusion from the home and the child's safety in the care of a responsible adult.

After discovery of abuse, the child should be placed in a familiar setting, if possible, consistent with protection. Concern should be given to protecting the siblings of an abused child. They should only be removed from the home when necessary.

32. Child Interviews

A suspected child victim of abuse and the non-offending family members should not be subjected to repetitious and unsystematic interviews.

Interviews must be conducted with skill and as little trauma to the child as possible. All interviews of child victims should be conducted by persons with special interviewing skills. Investigative interviews should be coordinated among law enforcement, prosecution and the child protection agency, preferably using a single interviewer to minimize trauma and increase reliability of information. The initial interview should be complete, and unobtrusively video-taped, or at least, audio-taped to preclude the need for repeated interviews.

Frequency and duration of interviews, medical examinations and psychological or psychiatric evaluations conducted on child victims should be restricted consistent with the needs of the child.

IV. OUT-OF-HOME PLACEMENT

Preventing Removal

33. Removal of Child
34. Reduction of Placements
35. Reasonable Efforts Criteria
36. Cultural and Ethnic Values
37. Preventative Services

Review Issues

38. Voluntary Placements
39. Placement Reviews
40. Monitoring Facilities
41. Expediting Return

Analysis

Children in foster care are further deprived by "foster care drift" as they move from foster home to foster home and grow up without permanent family ties. All the hundreds of thousands of children now in foster care were placed there with the hope that one day they would either be reunited with their biological parents or provided with a permanent adoptive family. Many, however, continue their childhood without a family. The lost human potential is great.

The Council's Permanency Planning for Families Project effort³⁹ has as its goal the reduction of both the number and duration of out-of-home placements. In fact, the use of long-term foster care has declined dramatically, from 25.3 percent of all cases in 1976 to only 13.4 percent in 1982.⁴⁰ But a great many abused and neglected children receive only foster care as a "long-term service." Foster care can be a viable placement alternative only with appropriate screening, training and monitoring, ideally leading to either the permanent adoption by a foster family, or preferably, realistic reunification with the child's first family. Through this difficult time, the child must be appropriately protected and receive necessary treatment and services.

Under the Federal Adoption Assistance and Child Welfare Act reasonable efforts such as family-based services are required to keep a child out of foster care. The likelihood of family reunification is greatly reduced the longer a child remains in placement. The likelihood of adoptive placement for a child is also greatly reduced if a child remains in foster care longer than two years. The opportunity for reunification is greatest during the first months. The chances for adoption by another family are best between 12 and 24 months in foster care and diminish thereafter in spite of eventual termination of parental rights and legal availability for adoption.⁴¹ This is why continuing judicial review of placement decisions is crucial. It is time to take a closer look at the entire child protection process, since wrong decisions can produce lasting damage to the child and society. The use of independent review boards can assist the court to monitor children's services and treatment.

33. Removal of Child

A child should not be removed from home until consideration is given as to whether the child can remain at home safely.

There is need for well-defined criteria to guide the removal or return of an abused or neglected child. Of similar concern is what "reasonable efforts" are

required to permit the child to remain safely in the home. The law is clear that no person or governmental agency may intrude upon the basic parental right to the care, custody and control of their children without convincing a court that such intervention is necessary. Frequently too many children are removed from home, for varying periods of time, without adequate services or treatment, judicial approval, or even later review.

Before approving the separation of the child from parents, except for emergencies, the court must determine whether the child protection agency has made reasonable efforts to prevent removal from the home. Consideration of such reasonable efforts under P.L. 96-272, the federal Adoption Assistance and Child Welfare Act, require attention to:

- The past or future provision of appropriate child care;
- Nursing and homemaking;
- Counseling and supervision;
- Continuing family, group or individual therapy;
- Alcohol and drug abuse treatment;
- Housing and job counseling;
- Parenting training; and
- Removal or exclusion of the offender by protective court order.

Consideration must be given to maintaining contacts among siblings and placing them together when appropriate.

34. Reduction of Placements

The number, duration and traumatic impact of out-of-home placements of deprived children must be reduced by "reasonable efforts" to seek alternatives consistent with the child's need for protection and treatment.

Courts, child protection agencies, advocates for parents and children, including court appointed special advocates (CASAs) and attorneys, and the parents and children themselves in all deprived children cases, must, by law, seek and consider alternatives to foster care placement of children consistent with the child's need for protection and treatment. The least traumatic and disruptive intervention should be used to safeguard the child's growth and development.

- Consideration should always be given to allowing the child to remain at home under protective orders of the court which could include removal of an alleged abuser and must include the delivery of supportive services in the home.
- When removal from home is necessary for protection or treatment of the child, willing and appropriate relatives close to the child's home should be considered for temporary placement.
- When it is not safe for the child to remain at home or to place a child temporarily in the home of a relative, a foster home close to the parents' home should be sought.
- When the child's need for therapy and treatment are such that a foster family and non-residential community resources are insufficient or inappropriate, professionally staffed group homes or residential treatment centers are appropriate placements for consideration.

In any child protection case, services must be both offered and provided to improve homemaking, parenting, and child care skills in addition to such therapy and counseling as is necessary to address problems of abusive behavior, chemical abuse or other issues which threaten the welfare of the child or the stability of the family unit.

Coordination is essential among juvenile and adult courts and social and mental health systems concerning the placement of the child, the conditions of placement, the involvement of the family in a treatment plan, and related prosecutorial interests.

35. Reasonable Efforts Criteria

Judges should evaluate the criteria established by child protection agencies for initial removal and reunification decisions and determine the court's expectations of the agency as to what constitutes "reasonable efforts" to prevent removal or to hasten return of the child.

Before a child is removed from home, or continues to remain away from home under state custody, a court must review the action of the child protection agency to determine if "reasonable efforts" have been made to avoid out-of-home placement, or to bring about reunification. It must also be shown that such services and treatment have not been successful to allow the child to remain at home or be returned home. The time a child must spend out of the home should be minimized consistent with the need for protection and service.

Judges must work with child protection agencies to develop risk assessment criteria for the removal and return of deprived children. Specific definitions and expectations of the court as to what constitutes "reasonable efforts" are critical to an effective system. Casework procedures and resources necessary to obtain measurable objectives within established timeframes should include:

- Age and abilities or disabilities of child and parent and the presence of a protecting adult in the home;
- Exhibited level of homemaking and parenting skills for child-rearing;
- Non-residential community resources and direct services to monitor the family, to minimize the risk of recurrence, and to meet the needs of child and parents;
- Exhibited willingness of parents to cooperate in a treatment plan and the desire of the parents and the child to remain together;
- Appropriate placement facilities;
- Provision of appropriate services and treatment such as homemakers, day care, counseling, parenting and child care classes; and
- Consideration of applicable federal and state legislation and court rules or decisions.

36. Cultural and Ethnic Values

In placing children, courts and child protection agencies must give consideration to maintaining racial, cultural, ethnic and religious values.

Many families have distinct differences which may provide unique support systems in child-rearing and in preventing or solving deprivation, neglect and abuse. Some of these unique family support systems include extended relationships and particular religious and social institutions.

37. Preventative Services

Programs which promote family preservation and prevention of out-of-home placement by providing early intensive services for the at-risk child and family must be developed and utilized in all communities.

Family-based services and counseling should be used to prevent out-of-home placements. Prevention of out-of-home placements does *not* mean *never* removing a child from home. There will always be some children who must be removed to assure their protection. However, the availability of intensive family-based programs will make the choice not to remove a child easier. Such family-

based intensive services focus on family preservation and provide crisis intervention, family counseling, reduced caseloads for social workers, evening and weekend caseworker availability, specialized training for direct service delivery, and emphasize the full use of all community resources.

38. Voluntary Placements

Agreements between parents and a child protection agency which voluntarily place a child out of the home should be in writing, filed with the court and reviewed by the court within 30 days.

Frequently, children are removed from the home and placed under state custody for varied periods of time and for various reasons, under a process known as "voluntary placement." Usually the parents "voluntarily" place the child with the child protection agency. To protect against possible abuses of this process and to avoid unnecessary long separations, public and private agencies should give early notification to the court. Voluntary placement with an agency should not be continued beyond 30 days for foster care or other public custody without judicial approval. Prior notification of the court should be required if the child is not to be released from such custody and returned home within 30 days.

A child should be placed into the custody of a public agency only after specific criteria are established and agreed upon in advance. Agreements and treatment plans should be written and signed to include:

- An explanation of why the parental placement is necessary, what alternatives were considered and why they were rejected, prior efforts undertaken to solve the problem, an explanation of why they were not successful, and the goals necessary to be reached in order for the child to be returned home.
- A statement by the agency of the services and resources to be used to assist the child and the family, the date the child will be returned home, and instructions to the parents regarding what they must do to facilitate the child's return.
- An acknowledgement by the parents that they have the right to refuse placement, the right to withdraw the child from placement unless a court order is issued within 72 hours, excluding weekends and holidays, after their request for return, and the right to notice, hearing and an attorney to secure return of the child if a court order is sought by the agency to continue the placement.
- An advisory to the parents that they have the right to reasonable visitation, the right to be consulted on decisions involving the child's medical, psychological and educational care, the right to be notified of the child's progress or of any significant changes in condition during placement, and the right to be notified of the child's location and caseworkers.

Copies of such voluntary agreements should be provided to all parties and to the court immediately after notice is filed to initiate, extend or terminate such voluntary placement.

39. Placement Reviews

As required by federal law, independent judicial review of all placements by the court or by a judicially appointed citizen review board must be conducted at least every six months. Eighteen months following placement, the court must conduct a full hearing to review the family service plan and the progress of the child for the purpose of establishing permanency planning for the child.

Until a child is returned home or adopted, assuring appropriate, frequent, independent and in-depth court review of out-of-home placements and denials of adoptive placement by child protection agencies is crucial to protect the interests of deprived children. Where the parental abuse, neglect or disability precipitating

removal of the child is determined as unlikely to change within a reasonable time, or when the agency and the parents cannot agree on a treatment plan, the court should receive such information immediately and schedule a review as soon as possible.

Stability and appropriate treatment for the child can best be provided when custody, visitation and service and treatment decisions are made at the beginning of the placement proceeding rather than weeks or months later in the ultimate dispositional order. Such decisions are not intended to be permanent and are subject to modification at subsequent review hearings.

40. Monitoring Facilities

Provision must be made for minimum standards and frequent review and inspection of all out-of-home placement facilities, staff and treatment programs.

Statutory mandates should assure that all out-of-home facilities, including residential treatment centers, group homes, foster homes and emergency shelters utilized for deprived children, are regularly and comprehensively inspected. Both the adequacy of the facilities and the professional ability of foster parents or residential staff should be carefully examined.

Child protective services should be required, as part of their routine responsibilities, to compile and make available current evaluative information on the various child treatment programs within the community.

Courts or independent judicially appointed citizen review boards should periodically review the effectiveness of child protection agency services and treatment, including all placement facilities.

41. Expediting Return

A child removed from home must be returned to the family as soon as conditions causing the removal have been substantially corrected and safeguards established.

In the same manner that "reasonable efforts" require a court to assure that all means to keep a child in the home safely have been exhausted, courts and child protection agencies also are required to make "reasonable efforts" to hasten the reunification of a child removed from his family. By federal law, courts or independent review boards must conduct a thorough review of each child removed to state custody on a regular basis, at maximum, every six months. If a child can be safely returned home, even with the assistance of appropriate treatment or services such as homemaking, nursing or counseling provided to the family, then that child and family should be given the opportunity to reunify under necessary court-ordered supervision, safeguards and protections.

A child victim of abuse should be reunited with an abusing parent or family member only after the following conditions have been met:

- stringent safeguards for protection within the home are established;
- the abusing parent has sufficiently progressed in treatment;
- the abused child is determined ready to return home; and
- the court has approved.

An infant or child hospitalized or in institutional or residential care as a result of parental abuse or neglect presents special problems and requires careful planning and case-by-case management by the medical community, child protection agency and court before being returned home.

In determining whether or not parents can provide adequate care following hospitalization, institutional or residential care of the abused child, these considerations apply:

- Their understanding how the injury and abuse occurred in relation to their own actions;
- Their possessing a new understanding of their child's physical and emotional needs through successfully accomplished treatment and training;
- Their willingness to cooperate with medical supervision, counseling, home visits and other safeguards or protective orders by the court and to have sufficiently indicated that necessary changes have or will be made;
- The relation of any existing physical or mental illness, including depression, drug or alcohol abuse, a negative, punitive or indifferent attitude toward the infant, or any other impediment of the parent which would endanger the child's physical or mental health; and
- The child's physical and emotional readiness to be returned home.

V. TREATMENT AND PLANNING

Treatment Requirements

42. Immediate Treatment
43. Family Focus
44. Parental Responsibility
45. Positive Parental Behavior
46. Substance Abuse
47. Mandated Treatment
48. Youthful Sexual Offenders

Paying for Support and Treatment

49. Payment by Offender
50. Victim Assistance Funds
51. Private Insurance

Providing Services

52. Qualified Treatment Personnel
53. Volunteer Assistance
54. Foster Homes
55. Foster Care Drift
56. Children with Special Needs
57. Shelter for Homeless Children

Permanency Planning

58. Termination of Parental Rights
59. Alternative Permanent Plans
60. Expedited Adoption Process
61. Subsidized Adoptions

Analysis

Nationally, multiple or sexual "maltreatment" and abandonment of children receives the highest ratio of services, while neglect and minor injury receives the least.⁴² Despite the fact that neglect causes about half of all child fatalities each year, in-home assistance, such as homemakers, remains a low budget priority.⁴³ These services do not, of course, reach the substantial amount of child victims never reported, or reported but not substantiated.

Although child victims frequently require help to alleviate the guilt they are experiencing about their family's problems, they are often placed into foster care without additional supports or necessary therapeutic intervention. The lack of immediate and effective treatment and coordinated planning and resources represents serious problems. Providing an adequate number of foster homes, trained foster parents, special homes for special needs children, emergency shelter care facilities and other alternatives prior to termination of parental rights are also critical. After termination, providing resources for the treatment and subsequent adoption of deprived children is the wisest investment society can make. An abused or neglected child, whether removed from the home or remaining in the home, needs assistance which is often not provided.

Although 80 percent of all substantiated cases of abuse or neglect receive "casework counseling,"⁴⁴ given the excessive caseloads, this response must be seen as more paperwork than counseling. (The ratio of cases to workers in some large jurisdictions has exceeded an unrealistic 150:1, allowing less than an hour per month for each deprived child). When caseloads are this high, it is clear that insufficient services are being provided. Only 46 percent of substantiated cases

receive long-term or support services such as foster care, day care, homemaking services and, mental health counseling. Only 11 percent receive emergency care or what is termed "crisis services."⁴⁵ It is increasingly apparent that mental and emotional illnesses of deprived children are factors that need systemwide attention.

Necessary guidelines and policies for child protection workers are frequently not available or implemented in practice, and service and treatment program effectiveness and quality are often questionable. Caseload size and lack of resources work against clear, concise, purposeful professional services. Workers are frequently left alone to make case decisions without adequate guidance, or adequate diagnostic and treatment facilities.⁴⁶ Perhaps the greatest shortcoming is the failure of society to provide the necessary resources to cope with the problems of deprived children. Reducing, rather than increasing, treatment and services in a time of voluminous caseloads and abandoned reports and investigations is only putting off the problem to the prisons of the next century.

42. Immediate Treatment

Treatment of an abused and neglected child must be immediate, thorough and coordinated among responsible agencies.

Treatment, therapy or counseling for the child victim should begin as soon as the assessment process has determined it necessary. Interim therapy and treatment should not be delayed pending adjudication. When a multi-disciplinary team has determined that treatment is necessary, a single therapist should be assigned to the child. A CASA should ensure that treatment is provided.

The lack of mental health resources for deprived children and their families is a national disgrace. Adequate treatment for the mentally ill or emotionally disturbed can be expensive but must not be avoided. Such noble notions as "deinstitutionalization" are often misused to avoid the expense of necessary in-patient care. Moreover, it must be recognized that emotional abuse is as rampant and lethal as physical abuse and also requires intensive treatment.

43. Family Focus

Treatment provided to the child through court or agency intervention should involve the entire family or focus on family relationships as they impact on the child, and should stress the primary responsibility of the parents for the child's welfare and protection.

Family involvement, where at all possible, should be stabilized rather than disrupted as a result of intervention and treatment. Early intervention is always better. Effective treatment of the parents and positive behavior by them, such as successful completion of an alcohol abuse or violence prevention program, is important to the child's healing and to normalization of family relations.

To facilitate a family approach to all rehabilitation efforts, there should be intensive, home-focused treatment and services. Information should be shared among probation, welfare, child protection and other family agencies. There should be widespread publicity in the community regarding available programs.

44. Parental Responsibility

Child protection agencies and the courts should require parental responsibility for a child's well-being.

Courts and child protection agencies should encourage the basic responsibility of parents to care for and control their children. Facilitating such parental responsibility should be the goal of all interventions. Public policy should not, in any way, work against or impede parents from competently retaining, assuming or reassuming such responsibilities.

45. Positive Parental Behavior

Judges, as part of the disposition for the child, must have authority to order

treatment for the parents, to require other positive conduct, and to impose sanctions for willful failure or refusal to comply.

The best interests of a child who is in need of supervision, or is a victim of abuse or neglect or other deprivation, often requires that a parent participate in a course of treatment or demonstrate other positive conduct. Judges should have the authority to order such treatment or conduct and to sanction by contempt or other means, the willful failure or refusal of parents to comply with such an order. To this end, it must be clear that parents are parties to the action and warned of potential sanctions. Appropriate statutory changes should be made where necessary to provide such authority.

46. Substance Abuse

Substance abuse treatment, where appropriate, should be mandated for the parents and the child.

Courts must exercise leadership in the development of cost-effective alcohol and substance abuse identification and treatment programs. Residential facilities for children are encouraged to include substance abuse counseling for children and parents.

47. Mandated Treatment

Judges must have the authority to order the treatment determined to be necessary and should regularly review the efficacy of such treatment.

Courts are responsible for the protection and best interests of deprived children. Treatment plans should be required to be submitted at all dispositional and post-dispositional review hearings, with the court evaluating and approving the plan to determine whether conditions set forth facilitate permanency objectives for the child.

Courts should hold child protection agencies accountable, require progress reports at appropriate intervals, and schedule other review hearings when needed or at the request of any party. Child protection agency supervision must assure that all children in foster care receive regular medical examinations and care, including psychological testing as appropriate, and that any reasonable course of treatment recommended by a physician or psychologist be considered.

48. Youthful Sex Offenders

Judges must require appropriate treatment for youthful sexual offenders, most of whom have been victims of sexual abuse.

The cycle of young victims of sexual abuse who later become perpetrators of sexual abuse must be broken. Unless intensive intervention and effective treatment of such youthful sexual offenders is provided, with or without juvenile or criminal court-imposed sanctions, the cycle will continue. The earlier the intervention, the greater the likelihood of success.

49. Payment by Offender

The court should require the offender to pay the costs of treating the child victim.

Courts should be authorized by statute to include in dispositions a requirement that offenders make restitution to parents or governmental agencies for the costs incurred in providing medical, psychiatric, psychological, and other treatment for families and children who were victimized by the offender's abuse. Attorneys' fees, CASA and guardian ad litem costs and other expenses directly resulting from the abusive behavior should likewise be considered for reimbursement.

When the perpetrator is an immediate family member, the court must weigh

the value of such restitution against the long-term effect or burden of such reimbursement. Restitution should not be destructive of therapy for the child victim or impede reunification.

50. Victim Assistance Funds

Child victims of abuse or neglect should be eligible for victims assistance and compensation programs.

Statutes must provide that child victims are eligible to receive the services and compensation offered by Victim Assistance programs. Child protection agencies must assure that child victims in their custody receive the compensation for which they are eligible.

51. Private Insurance

In child support, custody and dependency hearings, if parents have or can obtain health care insurance, the court should order coverage.

Whenever possible, juvenile and family courts should make certain that parents who have, or can obtain, health insurance, apply that coverage to the children and that third party payments for agency-initiated treatment and therapy are authorized.

52. Qualified Treatment Personnel

Child protection caseworkers must be screened, trained and certified in order to improve child protection services and treatment.

Development of employee screening practices, certification standards and caseload guidelines, adequate compensation and training will assure the effectiveness of child protection services. Caseworkers should be certified to practice on the basis of education, training and experience. Caseworker training must be a part of formal education and a condition for licensure.

A detailed background investigation must be performed to qualify persons who work with deprived children.

53. Volunteer Assistance

Screened, qualified and trained volunteers should be used to enhance the quality of services to deprived children and families.

In addition to using Court Appointed Special Advocates (CASAs), courts should encourage the use of volunteers to meet the many needs of abused and neglected children and their families from the time of initial report through final court order and review. The acute lack of resources for deprived children in most communities provides opportunities for volunteers to assume such functions as foster parents, foster grandparents, substitute families and court workers. Citizen review boards, child protection and law enforcement aides, aides for victims and witnesses and pro-bono legal services and other donated professional services should be considered for volunteers. Senior citizens are an excellent source of volunteers.

Volunteer efforts are enhanced by appropriate titles, status, training, insurance, immunity, appearance priority and similar benefits. Judges should recognize that social service agencies are, in most cases, under-funded and that volunteers should supplement, not substitute for, an adequate and mandated level of professional services.

54. Foster Homes

A sufficient number of foster homes, adequately reimbursed and provided with access to treatment and support services, should be established.

Foster home care and foster parenting, however temporary, is an important

resource. Strict screening, improved recruiting, professional training, licensing requirements, and adequate compensation will encourage quality foster care.

All prospective foster parents should be required to participate in effective foster parent training. Since these children have been previously abused, it is particularly important to provide foster parents with training in using nonviolent forms of discipline and crisis management.

To enhance recruitment of qualified foster parents, consideration should be given to providing:

- Reimbursement for actual costs incurred;
- Medical and dental insurance coverage for the foster child;
- Continuing support, services and treatment by the child protection agency;
- Foster parent support groups;
- Community recognition for foster parent service; and
- Other inducements to assure an available network of foster homes.

55. Foster Care Drift

Frequent movement of children from foster home to foster home is detrimental to a child's physical and emotional well-being and must be reduced.

Foster homes should be carefully selected, matched to the needs of the deprived child, and encouraged to provide the child the most loving and permanent home possible.

The older a foster child gets or the more time the child spends in foster care, the less likely he or she is to be adopted. Special efforts must be made to provide alternatives to foster care drift.

56. Children With Special Needs

Specialized foster homes and foster parents should be established in each community for children with special needs.

Older, minority, disabled or seriously abused children require particular care, with specialized foster homes, trained foster parents, and continuing agency assistance tailored to their needs. Particular attention and added inducement must be given to providing specialized homes. The use of adoption exchanges and placements made through interstate adoption compacts expands the opportunity to find permanent homes for difficult to place children.

57. Shelter Homeless Children

Homeless and runaway children must be provided proper emergency shelter facilities as well as necessary services.

Much of the problem of at-risk or exploited children could be alleviated by improved and expanded emergency shelter facilities, with necessary services and counseling. Children "broke and on the streets" are particularly vulnerable. Shelters and services should be easily accessible for all children in trouble or at-risk to voluntarily avail themselves of such assistance. Such at-risk children and, if possible, their parents, should be evaluated for related abuse and neglect, drug or alcohol abuse or other problems preventing their return home.

58. Termination of Parental Rights

When there is clear and convincing evidence that the conduct of the parents would, under law, permit the termination of parental rights, and it is in the best interests of the child to do so, termination should proceed expeditiously.

If reasonable efforts have been made to reunify, reasonable time has been allowed, and the parents remain unfit or unable to protect and provide for the child, the court must find a way to provide a permanent and loving home for the

child. Termination proceedings, difficult as they are, are often legally necessary to accomplish this result. The immediate availability of adoptive parents should not be required to terminate parental rights. However, the availability of qualified foster parents willing and able to adopt their foster child is often a good indicator that expeditious termination proceedings may be appropriate.

59. Alternative Permanent Plans

When reunification is not possible or termination of parental rights is not in the best interests of the child, courts should consider other permanent plans.

In some cases, terminating a parent's rights is inappropriate and the court should examine such alternatives as:

- **Long-term custody** — in a homelike setting, such as placement with relatives, substitute or extended families, and foster grandparents;
- **Permanent or temporary guardianship** — after a finding of dependency and removal; or
- **Any other solution** short of termination leading to permanency for the child.

60. Expedited Adoption Process

When needed, adoption should proceed expeditiously. Foster parents should not be precluded from adopting their foster child.

Consideration for parental rights and hope for eventual reunification of the natural family must be weighed against the importance of the sense of time and the developmental process of each child in foster care. It is crucial that the child be found a permanent home and loving parents without languishing in temporary care.

The search for prospective adoptive parents should begin with careful selection of the child's foster parents. Traditional discrimination against foster parents becoming permanent adoptive parents should be eliminated. Capable and willing foster parents must be given an equal opportunity to adopt or to seek permanent guardianship or custody of a foster child. Where the chance to reunify the foster child with his or her family is remote, placement in a "pre-adoptive" home with foster parents readied and encouraged to permanently adopt the child should be considered.

Judges, attorneys, CASAs and child protection workers should analyze and regularly review the status of each child in foster care and the barriers to a safe and effective reunification within a reasonable time. When such reunification is not possible due to the continuing unfitness of the parents, termination proceedings to free such a child for permanent adoption should proceed.

61. Subsidized Adoptions

Subsidized adoption programs should be more widely available and used for special needs and hard-to-place children.

Subsidized adoption programs permit disabled children or children with special needs to be placed for adoption with financial assistance from the government for the extra costs involved. Many foster parents who are aware of the possibility of adopting a child do not do so because they believe they cannot afford a special needs child without a subsidy. This is particularly true for those foster parents who might care for handicapped children or a large sibling group. Finances need not be a barrier to providing a loving and permanent home.

Subsidized adoption can often expedite the adoption of all children, but is especially intended to facilitate the placement of "special needs" children. These children include the handicapped, large sibling groups, minorities and older children. Subsidized adoption programs are a most important aspect of providing permanent placement for foster children.

VI. PREVENTION ISSUES

Early Prevention

62. Priority for Prevention
63. Parenting Education
64. Teenage Parents
65. Child Care Facilities
66. Employee Assistance Programs

Disabled Families

67. Children's Disabilities
68. Help for Disabled

Children-at-Risk

69. Child Support Enforcement
70. Exploited Children
71. Runaway and Incurable Children
72. Truancy and School Dropouts
73. Security and Custody

Analysis

The response of society to the tragedy of deprived children has been after-the-fact and ineffective, and the costs of responding with adequate treatment are enormous. As the recommendations discuss, treating the problem rather than preventing it has been the primary method of responding to the issue of deprived children. The estimated \$10 billion⁴⁷ spent each year on treating child abuse and neglect has not produced good results. Only about 1 percent is estimated to be spent on primary prevention, stopping the disorder or problem before it starts.⁴⁸ Prevention of child abuse and neglect requires the awareness and involvement of the entire community. Deprived children are everyone's business. Their social and economic costs affect all Americans now and in the future. The court and all segments of the community should take active roles in balancing treatment and prevention.

Support programs for new parents, runaway programs and shelters, parenting training and child care opportunities, self-help and family-based prevention services, early and regular screening, and life-skills training to protect children from abuse and to cope with crisis are all vital.

Children and parents with special problems, for example, learning disabled, emotionally disturbed, mentally ill or otherwise physically or developmentally disabled, are often inadequately served. Lack of coordination, inadequate screening, unreasonable restriction on involuntary mental health commitment and the unwillingness or inability of mental health agencies to treat delinquent, abused, neglected or other deprived children are serious problems.

All children at-risk, including runaways, habitual truants, the chronically incorrigible and those not receiving any or inadequate child support, must be considered when providing prevention services.

62. Priority for Prevention

Prevention and early intervention efforts must receive a high priority, with a greater emphasis placed on providing adequate services to prevent child abuse, neglect and family break-ups through adequate education, early identification of those at risk, and family-based counseling and homemaker services.

Prevention, as opposed to only identifying or treating the problem after the fact, is the most cost effective and comprehensive strategy to reduce the frequency and severity of deprivation among children. It is necessary to develop cost-effective methods such as public and professional education, heightened public and system awareness and extensive community-wide campaigns to identify potentially at-risk children.

Parents, children and the community must be encouraged to call for help. Professionals must be aware of the indicators of deprivation and the resources available to prevent future tragedies. Prevention must encompass parents, schools, churches, business, the private sector, media, volunteers, a coordinated government response, and, particularly, children themselves.

63. Parenting Education

Continuing education in parenting and in understanding the physical and emotional needs of children and families should be widely available in schools, health care systems, religious organizations and community centers.

The teaching of parenting skills and family management, including economics, must begin in preschool and continue through high school, then begin again upon pregnancy and continue for both the parents throughout their children's adolescence. Such parenting training must be required and provided for all abusing and neglecting parents. Parenthood preparation classes, training for good parenting and child development should be widely available.

Special training in prenatal health, bonding, and caring for the newly born must be available, at reasonable cost, for all new parents regardless of economic status. Necessary parenting support should be provided through qualified home visitors and parenting clinics established through both the public and private sectors.

64. Teenage Parents

Communities must provide special parenting education and services for pregnant teenagers as well as teenage parents, including counseling on relinquishment and adoption.

An alarmingly high proportion of child abuse and neglect is perpetrated by parents who are children themselves and who lack the patience, emotional stability, sound judgment, knowledge and other parental attributes which increase with maturity. Family members, friends, and others often mistakenly encourage prospective teenage parents to keep their babies with well-intentioned but unrealistic or unfulfilled promises to help or support. Child-parents, both mothers and fathers who choose to keep their child, must be provided with intensive and specific counseling and parenting training, beginning at pregnancy and continuing through the critical first years of their child's life.

Counseling on relinquishment and adoption should be available and provided to assure that parents or pregnant single women have a full opportunity to consider alternatives without being made to feel guilt or a sense of failure by relinquishment.

65. Child Care Facilities

Adequate child care facilities and services, with training, licensing and monitoring of the providers, should be available to all parents needing such services.

Adequate child care services and facilities, including nurseries and crisis care, should be developed and available in each community for all parents needing such services. Employers are increasingly providing on-site day care for their employee's young children, finding it has a positive effect on employee recruitment, absenteeism and turnover.

Licensed child care facilities should be available for all working parents. Child protective agencies should be required to regularly review and monitor the current status of child care practices and resources, including needs, costs, licensing requirements, standards of care, rights of parent to inspect facilities, and strategies to invoke community and parental awareness of child care needs.

66. Employee Assistance Programs

Employer-sponsored assistance and counseling programs for family violence and child abuse or neglect, such as those used for alcoholism and drug abuse, should be established.

Employer-sponsored assistance and counseling programs for the prevention and intervention in family violence can have good immediate and long-range effects not only in the work place, but also within the at-risk family. Employers should develop such educational, awareness and intervention programs similar to the many successful drug and alcohol abuse programs now operated by employers. Information on identification, company policy, insurance and treatment options and general resource materials on family violence and child abuse and neglect, emphasizing early detection and prevention through employee assistance counselors and other community or company resources, should be provided to employees.

Employers should encourage the abuser and potential abuser to seek help, and should facilitate placing the employee in an appropriate treatment program. Such action will result in rehabilitating valued employees, preserving the family and preventing future abuse. Employers are also in a favored position to assure coverage for such treatment through company health insurance policies.

67. Children's Disabilities

Identification and assessment of the physically, mentally or emotionally disabled or learning disabled child must occur as early as possible.

A community based effort to identify and treat the physically, mentally or emotionally disabled child, including the learning disabled child, at an early stage before later difficulties begin, must receive the highest priority. The public must be educated and resources provided to better serve the needs of all disabled children.

Easily usable assessment tools for non-medical professionals must be developed and put into use in every community by parents, teachers, and social workers to identify learning or emotional disabilities and to distinguish such disabilities from more severe emotional disturbances or mental illness.

Most commonly left unidentified and treated are learning disabilities. These are manifested by significant difficulties in the acquisition and use of listening, speaking, reading, writing, reasoning, or mathematical abilities. Such disorders are intrinsic to the individual child and presumed to be due to central nervous system dysfunction.

68. Help for Disabled

Services and education must be designed for and provided to mentally ill, emotionally disturbed and physically or developmentally disabled children and parents.

Appropriate services must be developed and their application assured to all those who are mentally ill, emotionally disturbed or physically or developmentally disabled. When a physically or developmentally disabled child comes within the jurisdiction of the court as an abused or neglected child, a foster care placement, or even as a child being returned home, appropriate treatment and services, including schooling and therapy, must be provided, within the community if possible, and by judicial order if necessary. For example, mentally ill or severely

emotionally disturbed juveniles are frequently released from mental health facilities prematurely due to lack of space and resources. Such children should not be discharged without court approval.

Special programs must also be developed and provided to assist physically, mentally or emotionally disabled parents to better protect and care for their children. Such parents often need assistance to enhance their parental abilities. To prevent unwarranted removal of a child from the home, present programs for the disabled or handicapped need to include training in parenting skills within the limitations of each particular disability.

69. Child Support Enforcement

Judges must assure that child support orders are expedited and vigorously enforced and urge cooperation among all components of the child support enforcement process and all federal and state government agencies which may impact on child support enforcement proceedings.

Non-payment or inadequate levels of child support and unenforced visitation rights of the non-custodial parent impact upon a child's care, standards of living and potential, often leading to other deprivation.

Non-support of children by their parents has reached crisis proportions, placing huge burdens on government and society. Over \$3 billion in child support payments during 1983 were defaulted on.⁴⁹ Unsupported or inadequately supported children are often forced to live below poverty levels. Lack of compliance with court orders for support is shocking. Even where support has been initially paid, in many cases, it is reduced or vanishes. Court support orders are often disparate and insufficient to meet basic needs. Over half of all custodial parents are without a support order.⁵⁰ Courts must take a leading role to support and implement effective child support establishment and enforcement programs. It is in the best interests of children to have contact with both parents, and the right and duty of the absent parent to participate in the parenting of their child.

A good child support enforcement program includes:

- An efficient pre-adjudicatory and adjudicatory expedited child support process through uniform court rules, contempt procedures, a quasi-judicial hearing or mediation process and any other procedures necessary to assure the quick establishment and enforcement of adequate child support orders and visitation rights;
- Assurance that child support and social services are widely publicized and readily available to every family;
- Mandatory and voluntary automatic wage withholding mechanisms, both interstate and intra-state, including state income tax refund intercepts, property liens and performance bonds;
- Appropriate support formulas and guidelines for use by courts and by quasi-judicial or administrative officers;
- Efficient processes of determination of paternity and support obligations;
- Improvement of information systems technology for child support matters, including utilization of available federal funds;
- Legislative awareness of needs and resources to improve the child support enforcement process; and
- Education programs for judges, attorneys and others involved in child support enforcement.

70. Exploited Children

Persons convicted of exploiting children by means of pornography, prosti-

tution, drug use or trafficking must be severely punished. High priorities also must be given to national efforts to curtail the availability to children of pornography and excessively violent materials.

Exploiting a child by means of pornography, prostitution or drugs is serious child abuse. Additional legislative sanctions and strengthened enforcement against those who import child pornography or create child pornography must receive high priority. The creation, manufacture, distribution and display of all child pornography must be halted in order to protect all children from potential exploitation. Display and access laws to restrict the availability of pornography to children are necessary.

Legislatures should enact sanctions commensurate with the seriousness of these crimes. The mere possession of child pornography should be illegal. All photofinishing laboratories should be required to report suspected child pornography discovered during film processing. Legislative sanctions should be established in relation to the new methods of computer transmission of sexually exploitive materials, particularly pedophiles' use of computer bulletin boards listing potential child sex partners, establishing contacts with other pedophiles, and setting up assignments.

Law enforcement and prosecutorial agencies must place higher priority on apprehending and prosecuting adults who exploit children by means of pornography, prostitution, or drug use and trafficking. Courts must use the full force of the law in dealing with convicted offenders.

71. Runaway and Incurable Children

Courts and communities must provide services and courts must intervene, where necessary, to assist homeless, truant, runaway, and incurable children. Parents must be held personally and financially accountable for the conduct of their children.

Juvenile and family courts must re-establish the preventative role they once conducted by intervening, fairly but forcefully, in cases of homeless, truant, runaway or incurable children. The community must recognize the correlation of runaway children, school dropouts, habitual truants and chronically incurable children with the possibility of abuse and neglect at home, the potential for becoming delinquent, or exhibiting other problems for which immediate assistance should be provided. Such children often are those who create the greatest problems in providing safe schools and appropriate school discipline. They often have been deprived of a loving parental relationship and a home. The inherent preventative, rehabilitative and enforcement role of the juvenile and family court requires that increasing attention be paid to the problem of runaway, habitually truant or chronically incurable children as children at-risk, and often dangerous to themselves and others. Courts are responsible for the provision of justice for the community's children, and do neither the child nor the community justice when troubled and uncared for children are allowed to go without help. As an unintended consequence of the federal deinstitutionalization movement, such at-risk children are too often ignored and not provided help by social service systems.

Runaway children, many already chronically incurable and obviously truant, many already abused and neglected, often end up exploited as victims of pimps, pornographers or drug or theft rings. Often forced return of the child home to run again is not an answer. More available and workable responses need development. Emergency shelter, hot-lines and crisis care, half-way houses, substitute parents, foster care, adoption, job and drug counseling and special education programs must be employed. However, social service systems should not be used to absolve nor supplant parental responsibility. Parents must be held accountable,

personally and financially, for the conduct of their children, and interventions should in no way encourage relinquishment or avoidance of such responsibility.

72. Truancy and School Dropouts

Courts should cooperate with schools and other agencies, to substantially reduce truancy and dropouts by coordinating and providing services and assistance to the habitual truant.

A child deprived of an education is a serious community-wide problem. A habitually truant child is a child heading for trouble and a possible runaway, and the best diagnostic and treatment services available should be provided, for the good of the child and the community. Juvenile and family courts, by legislative re-establishment of court jurisdiction when necessary, must be called upon to intervene and order provision of services in cases of habitual truancy.

The prevention of truancy and school dropouts, the provision of special and alternative programs to keep children in school and the goal of increasing school attendance and student performance must be considered high priorities by both schools and courts.

73. Security and Custody

The courts should have authority to detain, in a secure facility for a limited period, a runaway, truant or incorrigible child whose chronic behavior constitutes a clear and present danger to the child's own physical or emotional well-being, when the court determines there is no viable alternative.

Ignoring the problem of vulnerable and at-risk children is not in the best interests of protecting certain juveniles whose behavior clearly endangers their physical or emotional well-being. Sometimes the needed response is secure or staff-secure care until further investigation and evaluation can be completed and a viable alternative placement provided.

CONCLUSION: THE AMERICAN FAMILY

Although our recommendations on deprived children specifically relate to the tragic results of failing families, the central theme we emphasize throughout is that of preserving and strengthening the family. As stated in the dedication, ". . . the family is the foundation for the protection, care and social education of America's children." In addressing the issue of deprived children and their families, it is fitting to conclude our thoughts with a tribute to the vast majority of well functioning American families which in spite of a rapidly changing society and with the caring patience, discipline and foresight typical of most parents manage to flourish and grow together. We must remember that, in spite of the often shocking statistics and the several millions of deprived children and families who require intervention and assistance, the fact remains that by far the greater number of families give and receive the love, protection and care which we continue to attribute to the meaning of the word "family."

However, we also must conclude with a warning. The concept of "family" as the foundation of our society is undergoing new and significant pressures. Never before has our pluralistic society included families with such vast numbers of single parents, ethnic and cultural variables, working mothers and latch key children. Never have the costs of providing child care, medical care and education been so high. Never have adverse influences and values outside the home or through television been so great. It is often against tremendous odds that many families are able to fulfill their traditional and vital functions. As the data shows, it has been much more difficult for those parents who must function as single parents, or if female at near poverty levels without child support, or for those who receive public assistance, or for adolescents who are themselves parents. The cycle of abused and neglected children who have become abusing and neglecting parents with their children in turn being abused, neglected, running away, acting out and often ending up before the courts has not been broken. The cycle of teenage pregnancies and teenage mothers without partners or providers, leading to dependence upon welfare and social services, and often to another generation of abused or neglected children continues.

Solutions to the problem of deprived children attempted by the assistance and protection of public and private agencies, legislatures and courts, regardless of the levels of resources ever to be available, cannot be successful without a continuing reliance on individual responsibility and the family. There are indications that parents are relinquishing their responsibility for raising their children to schools, child care providers, churches and government agencies. There are indications that misdirected public policy and procedure often discourages family unity and succeeds only in breaking up families. The most glaring result of our nation's high divorce rate and single parent families is the lack of parental guidance. Children need both parents or at minimum a father or mother "figure," if not in the home, then at least nearby and available to provide additional nurturing and discipline. This is not the responsibility of teachers, coaches or neighbors. Fathers or father "figures" need to counsel their sons on the responsibility of being a man and a parent. Teenage girls should not bear the burden alone. Until the American male can accept and act upon his responsibility to care and provide for his children, we will continue to produce the millions of deprived and dependent children — the subjects of our recommendations.

Both parents — natural, adopted or foster parents or parent substitutes — must actively demonstrate the love, trust, care, control and discipline which result in secure, emotionally happy and healthy children. It is the role of society to

engender within its citizens the awareness of what it is to be a good parent. No public or private agency, child care, social worker, teacher or friend can replace the parent in the child's mind. To the extent that family life is damaged or failing, our children, their children and the nation will suffer. The high calling of "parenthood" must be more adequately recognized, respected and honored by our society. Therein lies the future of our nation.

FOOTNOTES

¹ten Bensel, Robert, et al., "Child Abuse and Neglect," *Juvenile and Family Court Journal*, (Reno: National Council of Juvenile and Family Court Judges, 1985) p. 1.

²Statistics obtained from Children's Division, American Humane Association, Denver, Colorado, January 2, 1986.

³Ibid.

⁴Child Welfare League of America, study released February, 1986.

⁵ten Bensel, Robert, et al., "Child Abuse and Neglect," *Juvenile and Family Court Journal*, (Reno: National Council of Juvenile and Family Court Judges, 1985), p. 1.

⁶National Center on Child Abuse and Neglect, "Report on the National Incidence Study," 1981.

⁷Russell, Alene B. and Trainor, Cynthia M., *Trends in Child Abuse and Neglect: A National Perspective*, (Denver: Children's Division, American Humane Association, 1984) p. 41.

⁸National Center for Juvenile Justice, Pittsburgh, Pa., p. 14.

⁹Ibid., p. 8.

¹⁰"Research: Aftermath of Physical Punishment," *The Last Resort*, Vol. 9, No. 2, (November/December, 1980) cited by ten Bensel et al., "Child Abuse and Neglect," p. 4.

¹¹Park, R.D., Collmer, C.W., "Child Abuse: An Interdisciplinary Analysis" in Hetherington, M., *Review of Child Development Research* (Vol. 5) (Chicago: University of Chicago Press, 1975) pp. 1-102.

¹²Steinmetz, S.K., "Violence Between Family Members," *Marriage and Family Review*, 1(3):1-16, 1978.

¹³"TV: Sex and the Single Teen," *The Wall Street Journal*, January 27, 1986, p. 24 citing "CBS Reports" *The Vanishing Family—Crisis in Black America*, narrated by Bill Moyers.

¹⁴Russell and Trainor, *Trends in Child Abuse and Neglect*, p. 16.

¹⁵Ibid., p. 16.

¹⁶ten Bensel, et al., "Child Abuse and Neglect," p. 33.

¹⁷Russell and Trainor, *Trends in Child Abuse and Neglect*, pp. 22-24.

¹⁸Ibid., p. 21.

¹⁹ten Bensel, Robert, et al., "Child Abuse and Neglect," *Juvenile and Family Court Journal*, (Reno: National Council of Juvenile and Family Court Judges, 1985) p. 1.

²⁰Russell and Trainor, *Trends in Child Abuse and Neglect*, p. 22.

²¹Ibid., p. 23.

²²Ibid., pp. 23 and 25.

²³Ibid., p. 24.

²⁴Ibid., p. 25.

²⁵Ibid., p. 29.

²⁶Finkelhor, D., "Sexual Abuse: A Sociological Perspective," paper presented at the Third International Conference on Child Abuse and Neglect, Amsterdam, 1981, cited by ten Bensel et al., in "Child Abuse and Neglect," p. 30.

²⁷Russell and Trainor, *Trends in Child Abuse and Neglect*, p. 34.

²⁸Ibid., p. 35.

²⁹Ibid., p. 35.

³⁰Ibid., p. 34.

³¹ten Bensel et al., "Child Abuse and Neglect," p. 2.

³²Ibid., p. 2.

³³Ibid., p. 3.

³⁴Ibid., p. 2.

³⁵Ruth Kempe in Kempe, C. Henry and Helfer, Ray E., *The Battered Child*, 3rd ed., (Chicago: University of Chicago Press, 1975) cited by ten Bensel et al., in "Child Abuse and Neglect," pp. 7-8.

³⁶Diamond, L.J., and Jaudex, P.K., "Child Abuse in a Cerebral-Palsied Population," *Developmental Medicine and Child Neurology*, (1983) 25, pp. 169-174.

³⁷Russell and Trainor, *Trends in Child Abuse and Neglect*, p. 7.

³⁸*Journal of the American Medical Association*, August 9, 1985, pp. 796-803, and the assistance of Dr. Robert ten Bensel.

³⁹The NCJFCJ Permanency Planning for Children Project, started in 1972, has established interdisciplinary task forces in many states under the auspices of State Supreme Courts. Members include judges, legislators, lawyers, social workers and lay child advocates. This interdisciplinary team approach is producing:

- enhanced resources for abused and neglected children;
- improved prevention and reunification services;
- improved adoption laws and practices;
- increased public awareness of foster care problems and grassroots support;
- increased volunteerism; and
- a reduction in the number of children who unnecessarily remain in foster care.

⁴⁰Russell and Trainor, *Trends in Child Abuse and Neglect*, p. 40.

⁴¹This is the Council's own well-considered and experienced opinion, initially based on the Committee's adaptation of T. Stein and T.L. Repnicki's *Decision-Making at Child Welfare Intake* (1983) p. 4, which states the likelihood for reunification is greatest during the first 12-18 months, that the chances of a child leaving the system after 3 years are greatly diminished, and that the chances for adoption are best between 18 and 36 months.

⁴²Russell and Trainor, *Trends in Child Abuse and Neglect*, p. 40.

⁴³*Ibid.*, pp. 40-42.

⁴⁴*Ibid.*, pp. 40-42.

⁴⁵*Ibid.*, p. 41.

⁴⁶*Ibid.*, pp. 49-51.

⁴⁷See introduction to this document for a discussion of treatment costs.

⁴⁸Statement of Dr. Robert ten Bensel, Project Consultant, at Metro Courts Committee Meeting, November 1, 1985, Reno, Nevada.

⁴⁹Office of Child Support Enforcement, U.S. Department of Health and Human Services.

⁵⁰*Ibid.*

EXECUTIVE SUMMARY

DEPRIVED CHILDREN: A JUDICIAL RESPONSE

73 Recommendations

ROLE OF JUDGES

1. Judges must provide leadership within the community in determining needs and obtaining and developing resources and services for deprived children and families.

2. Juvenile and family courts must have the clear authority, by statute or rule, to review, order and enforce the delivery of specific services and treatment for deprived children.

3. Judges must encourage cooperation and coordination among the courts and various public and private agencies with responsibilities for deprived children.

4. Judges and court personnel must make every effort to increase media and public awareness of the complex and sensitive issues related to deprived children.

5. Juvenile and family courts must maintain close liaison and encourage coordination of policies with school authorities.

6. Judges must exercise leadership in (a) analyzing the needs of deprived children and (b) encouraging the development of adequate resources to meet those needs.

7. Judges should take an active part in the formation of a community-wide, multi-disciplinary "Constituency for Children" to promote and unify private and public sector efforts to focus attention and resources on meeting the needs of deprived children who have no effective voice of their own.

COURT PROCEDURES

8. Juvenile and family courts, to be effective, must have the same stature as general jurisdiction courts. Judicial assignments should be based on expressed interest and competence and be for a substantial number of years.

9. All judges of all courts must ensure sensitivity in the courtroom and encourage sensitivity out of the courtroom to minimize trauma to the child victim.

10. Juvenile and family courts should have immediate and primary jurisdiction over children who have been allegedly abused to ensure protection and treatment for the child victim, notwithstanding pending criminal proceedings.

11. Adult prosecution arising out of an allegation of abuse should be coordinated with juvenile and family courts.

12. Priority must be given to abuse and neglect cases in the trial court as well as in the appellate process.

13. Juvenile and family courts must have funding to allow reasonable judicial caseloads and an adequate number of judicial officers to assure the necessary time for each case.

14. Court-appointed and public attorneys representing children in abuse and neglect cases, as well as judges, should be specially trained or experienced.

15. Court Appointed Special Advocates (CASAs) should be utilized by the court at the earliest stage of the court process, where necessary, to communicate the best interests of an abused or neglected child.

16. Juvenile and family courts should consider the use of judicially appointed citizen advisory boards to assist the court with independent screening, monitoring and review of individual placements, services, facilities and treatment.

17. A person supportive of the child witness should be permitted to be

present in court and accessible to the child during the child's testimony without influencing that testimony.

18. Family members should be permitted to offer suggestions or testify in aid of the disposition of the case.

19. Evidentiary and procedural rules consistent with due process must be adopted to protect the child victim from further trauma.

20. All courts should be granted authority to issue protective or restraining orders to prevent further abuse. Such orders should be freely used and vigorously enforced.

DETECTING, REPORTING AND EVALUATING

21. All persons who work with children on a regular basis should be trained to recognize indicators of abuse, neglect or significant deprivation.

22. All persons working with children must promptly report known or reasonably suspected abuse and neglect. Communication and witness privileges must not impede the reporting, investigation and adjudication of alleged child abuse.

23. Appropriate governmental agencies, schools of medicine and social work, and the media should widely publicize in each community reliable indicators of vulnerable families, child physical and sexual abuse and child neglect.

24. Abusive or potentially abusive persons should be encouraged to acknowledge their problem, seek help and participate in voluntary treatment for themselves and their families.

25. Agencies must respond immediately to reports of child abuse and neglect and provide follow-up information to the reporter.

26. A central registry of complaints of alleged abuse and neglect must be developed and maintained in each state with mandatory reporting of data from child protection and health agencies, as well as law enforcement and school officials, with access on a demonstrated "need to know" basis.

27. A thorough assessment of a child's problems and family is needed at all public and private intake facilities.

28. Child protection services and facilities should be available 24-hours a day to assure that allegations of serious neglect or abuse can be assessed and protection provided.

29. Reports of abuse and neglect should be evaluated immediately and, where necessary, a coordinated plan of action should be developed by law enforcement, the child protection agencies and the prosecutor.

30. Emergency removal of the child from the home must be subject to prompt judicial review.

31. The alleged offender, rather than the child, should be removed from the home, whenever appropriate.

32. A suspected child victim of abuse and the non-offending family members should not be subjected to repetitious and unsystematic interviews.

OUT-OF-HOME PLACEMENT

33. A child should not be removed from home until consideration is given as to whether the child can remain at home safely.

34. The number, duration and traumatic impact of out-of-home placements of deprived children must be reduced by "reasonable efforts" to seek alternatives consistent with the child's need for protection and treatment.

35. Judges should evaluate the criteria established by child protection agencies for initial removal and reunification decisions and determine the court's expectations of the agency as to what constitutes "reasonable efforts" to prevent removal or to hasten return of the child.

36. In placing children, courts and child protection agencies must give consideration to maintaining racial, cultural, ethnic and religious values.

37. Programs which promote family preservation and prevention of out-of-home placement by providing early intensive services for the at-risk child and family must be developed and utilized in all communities.

38. Agreements between parents and a child protection agency which voluntarily place a child out of the home should be in writing, filed with the court and reviewed by the court within 30 days.

39. As required by federal law, independent judicial review of all placements by the court or by a judicially appointed citizen review board must be conducted at least every six months. Eighteen months following placement, the court must conduct a full hearing to review the family service plan and the progress of the child for the purpose of establishing permanency planning for the child.

40. Provision must be made for minimum standards and frequent review and inspection of all out-of-home placement facilities, staff and treatment programs.

41. A child removed from home must be returned to the family as soon as conditions causing the removal have been substantially corrected and safeguards established.

TREATMENT AND PLANNING

42. Treatment of an abused and neglected child must be immediate, thorough and coordinated among responsible agencies.

43. Treatment provided to the child through court or agency intervention should involve the entire family or focus on family relationships as they impact on the child, and should stress the primary responsibility of the parents for the child's welfare and protection.

44. Child protection agencies and the courts should require parental responsibility for a child's well-being.

45. Judges, as part of the disposition for the child, must have authority to order treatment for the parents, to require other positive conduct, and to impose sanctions for willful failure or refusal to comply.

46. Substance abuse treatment, where appropriate, should be mandated for the parents and the child.

47. Judges must have the authority to order the treatment determined to be necessary and should regularly review the efficacy of such treatment.

48. Judges must require appropriate treatment for youthful sexual offenders, most of whom have been victims of sexual abuse.

49. The court should require the offender to pay the costs of treating the child victim.

50. Child victims of abuse or neglect should be eligible for victims assistance and compensation programs.

51. In child support, custody and dependency hearings, if parents have or can obtain health care insurance, the court should order coverage.

52. Child protection caseworkers must be screened, trained and certified in order to improve child protection services and treatment.

53. Screened, qualified and trained volunteers should be used to enhance the quality of services to deprived children and families.

54. A sufficient number of foster homes, adequately reimbursed and provided with access to treatment and support services, should be established.

55. Frequent movement of children from foster home to foster home is detrimental to a child's physical and emotional well-being and must be reduced.

56. Specialized foster homes and foster parents should be established in each community for children with special needs.

57. Homeless and runaway children must be provided proper emergency shelter facilities as well as necessary services.

58. When there is clear and convincing evidence that the conduct of the parents would, under law, permit the termination of parental rights, and it is in the best interests of the child to do so, termination should proceed expeditiously.

59. When reunification is not possible or termination of parental rights is not in the best interests of the child, courts should consider other permanent plans.

60. When needed, adoption should proceed expeditiously. Foster parents should not be precluded from adopting their foster child.

61. Subsidized adoption programs should be more widely available and used for special needs and hard-to-place children.

PREVENTION ISSUES

62. Prevention and early intervention efforts must receive a high priority, with a greater emphasis placed on providing adequate services to prevent child abuse, neglect and family break-ups through adequate education, early identification of those at risk, and family-based counseling and homemaker services.

63. Continuing education in parenting and in understanding the physical and emotional needs of children and families should be widely available in schools, health care systems, religious organizations and community centers.

64. Communities must provide special parenting education and services for pregnant teenagers as well as teenage parents, including counseling on relinquishment and adoption.

65. Adequate child care facilities and services, with training, licensing and monitoring of the providers, should be available to all parents needing such services.

66. Employer-sponsored assistance and counseling programs for family violence and child abuse and neglect, such as those used for alcoholism and drug abuse, should be established.

67. Identification and assessment of the physically, mentally, emotionally or the learning disabled child must occur as early as possible.

68. Services and education must be designed for and provided to mentally ill, emotionally disturbed and developmentally disabled children and parents.

69. Judges must assure that child support orders are expedited and vigorously enforced and urge cooperation among all components of the child support enforcement process and all federal and state government agencies which may impact on child support enforcement proceedings.

70. Persons convicted of exploiting children by means of pornography, prostitution, drug use or trafficking must be severely punished. High priorities also must be given to national efforts to curtail the availability to children of pornography and excessively violent materials.

71. Courts and communities must provide services and courts must intervene, where necessary, to assist homeless, truant, runaway, and incorrigible children. Parents must be held personally and financially accountable for the conduct of their children.

72. Courts should cooperate with schools and other agencies to substantially reduce truancy and dropouts by coordinating and providing services and assistance to the habitual truant.

73. The courts should have authority to detain, in a secure facility for a limited period, a runaway, truant or incorrigible child whose chronic behavior constitutes a clear and present danger to the child's own physical or emotional well-being, when the court determines there is no viable alternative.

National Council of Juvenile and Family Court Judges: Serving Judges, Youth and the Community

The National Council of Juvenile and Family Court Judges has been dedicated, since its founding in 1937, to improving the nation's diverse and complex juvenile justice system. The Council understands that an effective juvenile justice system must rely on highly skilled juvenile and family court judges, and has directed an extensive effort toward improving the operation and effectiveness of juvenile and family courts through highly developed, practical and applicable programs and training. Since 1969 the Council, through its Training Division, the National College of Juvenile Justice, has reached more than 65,000 juvenile justice professionals with an average of 50 training sessions a year — a record unparalleled by any judicial training organization in the United States.

The Council recognizes the serious impact that many unresolved issues are having upon the juvenile justice system and the public's perceptions of the problem as they affect, through legislation and public opinion, the juvenile court.

Serving as a catalyst for progressive change, the Council uses techniques which emphasize implementing proven new procedures and programs. Focus on meaningful and practical change and constant improvement is the key to the Council's impact on the system.

The Council maintains that juvenile justice personnel, and especially the nation's juvenile and family court judges, are best equipped to implement new concepts and other proposed improvements. The most effective method of bringing about practical and necessary changes within the juvenile justice system is through that system, and particularly through the judges themselves. Continuing, quality education is a keystone in producing this change.

The Council facilities, located at the University of Nevada, Reno, include modern classrooms and a law library. The Council uses its own housing facility to provide economical lodging and meals for both faculty and participants. These facilities offer an attractive environment for judges to explore practical solutions toward the betterment of juvenile justice. The Council, with its National Center for Juvenile Justice in Pittsburgh, maintains a staff of more than 50.