



**STATEWIDE COMMUNITY MEETINGS ON  
CHILD ABUSE**

**January - February 1988**

**William B. Hoyt, Chairman  
Subcommittee on Child Abuse**

**Mel Miller, Speaker  
New York State Assembly**

**Albert Vann, Chairman  
Committee on Children and Families**

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New York State Assembly  
Subcommittee on Child Abuse**

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**Mel Miller, Speaker  
New York State Assembly****Albert Vann, Chairman  
Committee on Children and  
Families**



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STATE OF NEW YORK  
ALBANY

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June 1988

Dear Friend,

As Chairman of the Assembly Subcommittee on Child Abuse, I had the pleasure of hosting a series of Statewide community meetings on child abuse attended by an impressive cross section of professionals.

The community meetings were an innovative way to examine the problems experienced on a local level and propose concrete solutions to the pervasive problem of child abuse. This report summarizes the proceedings of the meetings, highlighting the solutions that were suggested.

The identification of needed legislation or administrative changes is, however, only a beginning. The task is now to translate these ideas into action by enacting laws and implementing policy changes which will ultimately aid in the solution to the problem of child abuse and neglect.

My thanks to all who contributed their time and energy toward making each of these meetings a success. A special thank you to Speaker Mel Miller for his support and to the Speaker's Program and Counsel Staff and the Speaker's Regional Office Staff in Binghamton, Buffalo, Hauppauge, Poughkeepsie and Syracuse, for their assistance with the meetings and in the preparation of this report. I would like to thank Stephanie Wacholder, on my staff, for her never ending commitment to helping children in this State.

Now, with the Decade of the Child in New York State, let us together move forward to improve the quality of life for our children.

Sincerely,

*William B. Hoyt*  
WILLIAM B. HOYT  
MEMBER OF ASSEMBLY

WBH:smp

"Perhaps this world will always be a world in which children suffer, but we can reduce the number of suffering children and if you don't help us, who will?"

Senator Robert F. Kennedy, 1968

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## HISTORY AND INTRODUCTION

The history of the protection of children is intimately involved with the story of three little girls. One was Mary Ellen whose abuse in 1874 was the impetus for the founding of the first child protective agency--the New York Society for the Prevention of Cruelty to Children. The second child was Roxanne, whose death in 1969 was instrumental in the creation of New York State's comprehensive laws pertaining to Child Protective Services. The third little girl was Lisa Steinberg whose death in 1987 reminds us that our work is not yet finished.

Reports of child abuse and neglect cases continue to increase at alarming rates. Since the State Central Register of Child Abuse and Maltreatment, known as the Hotline, was established in 1973, there has been more than a 300% increase in the annual number of reports. In 1974, the Hotline received 30,000 reports of child abuse and neglect, involving 60,000 children. By 1987, the Hotline received 105,059 reports alleging child abuse or neglect, involving 172,490 children. A 1983 study conducted by the New York City Mayor's Task Force on Child Abuse and Neglect determined that two to three children under the age of 6 were dying each week because of parental abuse, chronic neglect or the failure of welfare agencies to intervene.

To address the alarming increase in child abuse reports, in 1983 the Assembly Subcommittee on Child Abuse, chaired by Assemblyman William B. Hoyt, sponsored a Legislative Conference on Child Abuse which brought together professionals from around the State to plan a child abuse action agenda. It was at this conference that the participants emphasized that the real answer lies in the prevention of child abuse.

Traditional ways of coping with child abuse have typically occurred after a child has been abused: by conducting an investigation, taking court action, and providing treatment. However, by preventing child abuse we can save ourselves and our children tremendous social upheaval, pain, work and expense. It was at this conference that the bill establishing the Children and Family Trust Fund was introduced in the Assembly.

As a result of the conference discussions and the ever-increasing number of reports, the Legislature in 1984 passed

the Children and Family Trust Fund Act, which, for the first time in New York State, established a program for the prevention of family violence - child abuse, domestic violence, and elder abuse.

The act provides funds for prevention services to victims of family violence in order to strengthen family unity and reduce family violence. Programs include educating families or prospective parents to avoid patterns which can lead to family violence; increasing public awareness of family violence caused by stress, social isolation and the lack of parenting skills; and supporting community services for victims of domestic violence such as shelters and self-help groups. Over three million dollars was appropriated to the Trust Fund in the 1988-1989 State Budget.

In 1985 the Legislature enacted the Child Abuse Prevention Act which, for the first time, defined abuse and neglect in out-of-home settings and required the reporting, investigation, treatment and a corrective action plan within all residential care facilities for children. In addition, training programs were expanded for child care personnel and volunteers and all prospective employees with child care responsibilities were mandated to be screened through the Hotline for histories of child abuse and maltreatment.

Unfortunately we have not done enough; reports of child abuse and neglect continue to skyrocket. In 1985, nearly one-fifth of homicides, and an even larger proportion of assaults, occurred within the home between members of families. These reported incidents represented only a small proportion of the total number in the pervasive and persistent problem of family violence. ~~There was a 60% increase in the number of child abuse related deaths across the State between 1985 and 1986; and 166 deaths suspected of resulting from child abuse or neglect in 1987.~~

The issue of child abuse and neglect was once again catapulted into public awareness in November, 1987, when six year-old Lisa Steinberg fell into a coma and died, allegedly after she was beaten by Joel Steinberg, with whom she lived. The case was front page news for months, shocking readers with horrifying accounts of long term abuse and neglect. It was accompanied by widespread criticism that the Child Protective Services System in New York State, designed to safeguard children, had failed.

The circumstances of Lisa's death, together with additional news reports of Statewide statistics of abuse and neglect, spurred many concerned individuals to scrutinize New York's Child Protective Services System to begin reversing the frightening trend of increasing reports of child abuse and neglect and deaths caused by abuse or neglect. ~~Calls to the Hotline exploded from an average of 800 per day to about 2,000 per day in November, 1987.~~

It was against this background that a formal hearing was held in New York City early in 1988 by the Assembly Committee on Children and Families, Assemblyman Al Vann, Chairman; the Assembly Subcommittee on Child Abuse; and the Senate Child Care Committee, Senator Mary Goodhue, Chairperson. The hearing launched a series of Statewide community meetings held in January and February, 1988, by Assemblyman William B. Hoyt, Chairman of the Assembly Subcommittee on Child Abuse.

#### **FORMAT OF COMMUNITY MEETINGS ON CHILD ABUSE**

Chairman William B. Hoyt, accompanied by Assembly staff members, met with community experts in Buffalo, Poughkeepsie, Binghamton, Hauppauge, and Watertown. A 1987 survey of reports to the Hotline made in the counties visited demonstrated staggering numbers of child abuse and neglect cases in these localities.

<u>County</u>	<u>Reports</u>	<u>Children Involved</u>
Dutchess	1,396	2,359
Erie	5,172	8,838
Broome	1,230	2,052
Suffolk	5,719	9,506
Jefferson	769	1,244

Representatives of local service agencies, schools, hospitals, courts and law enforcement groups discussed the efficacy of the Hotline and the Child Protective Services System, examined what State and local administrative or legal changes were necessary, and proposed concrete solutions for the Assembly to study and consider. Participation in the community meetings was by invitation only, although the public and press were invited to attend. Participants included:

- a local commissioner of social services,
- a police commissioner,
- a county sheriff,



- a school superintendent,
- a district attorney,
- a law guardian,
- chief administrators of local hospitals,
- nurses,
- a director of local child protective services,
- State Department of Social Services officials,
- clergy,
- a Legal Aid attorney,
- a Family Court Judge,
- a coroner,
- a representative of Parents Anonymous,
- executive directors of child care institutions,
- executive directors of mental health private agencies, and
- representatives of child advocacy organizations.

Assemblyman Hoyt was convinced that a community meeting format would be informative, productive and ultimately more helpful to the Subcommittee's investigations because the format allowed for feedback and discussion among the participants. In fact, the success of the community forums can be attributed in large part to the round-table format used. In several of the meetings, local law enforcement officials, child protective directors, school officials and service providers sat down and talked with each other for the very first time. In general, there was opportunity for asking questions and getting to the heart of the issue which, in the end, added to the success of the meetings.

#### **PROBLEMS AND SOLUTIONS**

The following report includes a description of the Child Protective Services System, the problems enunciated by the community participants, and their proposed solutions to strengthen the system and better protect the children of New York State.

The community meetings allowed the Subcommittee to examine how well existing laws and procedures relating to the Child Protective Services System were working. Participants at the meetings clearly emphasized that problems with child protective services are Statewide and thus must be addressed, at least in the first instance, at the State level. The transcript of the testimony reveals that participants at each of the meetings described similar problems, although many alternative solutions were proposed. Some of the suggestions were the same across the State; some

differed to meet a locality's specific needs; and many required further study. This section of the report will outline the existing law and procedures as well as most of the problems and potential solutions that were raised by the community meeting participants.

The Subcommittee explored four major areas:

- I the Hotline,
- II mandated reporters,
- III the investigation of cases of child abuse and neglect and the delivery of services by local social services districts, and
- IV the court system.

Although many specific proposals will be considered by the Subcommittee, the following goals have been identified as the basis for its analysis:

- to improve the responsiveness of the Hotline;
- to better educate the public and mandated reporters about child abuse and neglect;
- to increase services available for abused and neglected children and their families, including enhancing the preventive and foster care services systems;
- to improve working conditions for child protective service workers and thus, improve the delivery of services; and
- to provide greater protection for children who come into contact with our courts.

## I THE HOTLINE

In 1973, New York State established a State Central Register of Child Abuse and Maltreatment (Social Services Law, Section 422), pursuant to the Child Protective Services Act. The State Central Register, located in Albany, (referred to hereafter as the Hotline) receives telephone calls alleging child abuse or maltreatment twenty-four hours a day, seven days a week. The Statewide, toll-free telephone number, to be used by all persons to report cases of suspected child abuse or maltreatment is: 1-800-342-3720. Onondaga and Monroe Counties have their own hotlines that do the initial screening, and whose staff must immediately notify the Hotline of all reports.

Upon receiving a call, the Hotline staff determines which calls constitute a report, according to the legal definition of abuse and neglect (See Appendix B). Currently, because of a shortage of Hotline staff, most reports are not taken at the time of the initial call. Instead, the staff call back those persons whose complaints fall within the legal definition of child abuse and neglect in order to ascertain additional information.

Once the Hotline accepts a call as a report, if the report involves a child in a familial, foster home, or day care setting, the report is forwarded to the local social services district for investigation of the validity of the allegations. Approximately one-third of the calls result in actual reports; fewer than 40% of those reports result in a finding of abuse or neglect, known as an indicated report.

To insure that child abuse and neglect do not go undetected, all instances in which there is a reasonable cause to believe neglect or abuse has occurred will constitute a report. Verifying such reports is almost always difficult, as often there is no clear evidence of what transpired. The child protective worker determines whether there is credible evidence to substantiate a finding of abuse or neglect by evaluating the information gathered during an investigation. This determination is based upon certain signs, including the physical condition of the child and the home and the worker's evaluation of the family. This investigation includes checking for previous reports, and visits to the home, interviews with friends, employers,

neighbors, schools, doctors, and other appropriate agencies. The actual determination of the presence or absence of abuse or neglect is made by the local child protective agency which then begins the process of diagnosis, protection and treatment, if needed.

In addition to being used for reporting and investigative functions, the Hotline is also used to screen the background of persons who will have regular contact with children, including persons applying for the following positions: foster parents, adoptive parents, child care workers, child care facility employees or employees of child care facility contract agencies who will have potential for regular contact with children in facilities, operators of day care centers, family day care homes, group family day care homes and day and overnight camps. Background checks through the Hotline must also be made for persons over the age of eighteen who reside in the home of a person who has applied to become a foster parent or to operate a family day care home.

The Hotline is also responsible for monitoring the provision of child protective services and assessing the performance of local social services districts, and for providing technical assistance to districts as needed.

#### **PROBLEMS: THE HOTLINE**

The Legislature, in establishing the Hotline, envisioned an efficient and timely system by which allegations of child abuse and neglect could be made, determinations of abuse and neglect verified, and services delivered. All in all, the system decreased the workload of localities by screening inappropriate calls and allowing the local social services districts to concentrate on those cases where there is suspicion of abuse or neglect.

Because of the great influx of calls following Lisa Steinberg's death in November, 1987, the Hotline hired more intake workers and initiated plans to upgrade its computer system. Most of the localities which participated in the community meetings, however, still experience problems with the Hotline, many of which are quite disturbing. The problems voiced most often include:

1. The Hotline number is often misused by persons seeking research or information about various State programs.

2. Callers have difficulty in reaching the Hotline, sometimes waiting as long as 20 minutes for a call to be answered.

3. After the initial screening, a caller often must wait too long, sometimes several hours and into the next working shift, for the Hotline staff to call back. As a result, often the best interests of the child are not met, especially if the original caller has left work and another person has to give the Hotline secondhand information during the follow-up interview.

4. The Hotline staff is inconsistent when evaluating information to determine which calls constitute a report.

5. The Hotline staff expects callers to use specialized, technical jargon, and if the callers do not, the staff sometimes does not accept those calls as reports.

6. The Hotline staff requests too much information from a caller during an emergency situation when immediate action is necessary.

7. The Hotline staff sometimes rejects calls as reports when callers are unable to identify an abuser. It does not accept suspicion as a criterion for a report even when callers are sure that abuse or neglect has taken place.

8. The Hotline is sometimes misused in divorce cases with false accusations being made between spouses fighting over custody of a child.

9. There is insufficient monitoring by the State Department of Social Services regarding both the operation of the Hotline, and the quality of the investigations and service delivery performed by the local districts.

#### **PARTICIPANTS' PROPOSED SOLUTIONS: THE HOTLINE**

The participants were encouraged to think of solutions to suggest to the Subcommittee. As stated previously, some of the suggestions were uniform throughout the State, some were specific for the area, some require further study, and some contradicted each other. The following is a list of the many suggestions made which the Subcommittee is examining as potential solutions:

1. The State Department of Social Services should mount a publicity campaign that not only would educate the public about the existence of child abuse and neglect, but would also specifically describe the legal parameters of the terms abuse and neglect, and the appropriate use of the Hotline number.

2. The Hotline should add additional staff to answer the increasing number of calls.

3. The State Department of Social Services should provide additional training and supervision both for the initial screening and for the subsequent interview in order to provide consistency in the Hotline's determination of a report.

4. The Legislature should establish and publicize a toll-free number for information about State programs.

5. The State Department of Social Services should permit local child protective services to act when there is no known perpetrator.

## **II. MANDATED REPORTERS**

Mandated reporters are those professionals required by law (Social Services Law, Section 413) to report a case of child abuse to the Hotline. These professionals are: physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, residents, interns, psychologists, registered nurses, hospital personnel engaged in the admission, examination, care or treatment of persons, Christian Science practitioners, school officials, social services workers, day care center workers, volunteers in a residential care facility, any other child care workers, foster care workers, mental health professionals, peace officers, police officers or other law enforcement officials, and district attorneys, assistant district attorneys, or investigators employed in the office of a district attorney.

All mandated reporters have immunity from any civil or criminal liability when acting in good faith and not as a result of willful misconduct or gross negligence (Social Services Law, Section 419). Conversely, any mandated reporter who willfully fails to report a case of suspected child abuse may be guilty of a class A misdemeanor (Social Services Law, Section 420).

According to research conducted at Cornell University on the reporting of child abuse and neglect, those reports made by mandated reporters were substantiated at a significantly higher rate than those reports made by non-mandated reporters.

### **PROBLEMS: MANDATED REPORTERS**

Mandated reporters who participated in the community meetings articulated the following frustrations:

1. Calls by mandated reporters are not routinely judged as reports by the Hotline staff.
2. Professional relationships, i.e., between a doctor and a patient or between a caseworker and a client, often are strained or severed when the mandated reporter calls the Hotline.

3. The statute lists school official among those who are mandated reporters, and it is unclear whether or not a teacher per se is a mandated reporter.

4. Abuse of children by school employees is not reportable to the Hotline.

5. There is no standard protocol in schools for reporting.

6. Some mandated reporters do not call the Hotline because the reporting process takes too much of their time and their professional judgment is questioned in such a way as to make the process demeaning.

7. Substance abuse by parents is not being accepted as a criterion for neglect despite the law's specifying otherwise.

#### **PARTICIPANTS' PROPOSED SOLUTIONS: MANDATED REPORTERS**

The Subcommittee will evaluate many of the suggestions made, including whether or not:

1. Calls from mandated reporters should be given a priority status.

2. The State Department of Social Services should create an "express line" - an unpublished telephone number distributed only to mandated reporters for calling the Hotline.

3. Local districts should run their own hotlines during working hours, 9 a.m. to 5 p.m.

4. Professionals should be required to show evidence of having received training in child abuse and neglect as a condition for licensure or certification.

5. Professional schools attended by mandated reporters should include training in child abuse and neglect in their curricula.

6. The State Department of Social Services should educate mandated reporters in their legal responsibility to report cases of child abuse and neglect and the legal consequences of their failure to do so.

7. The law should be clarified to specifically state that teachers are mandated reporters.



8. A consistent protocol for schools to report cases of child abuse and neglect should be developed.

9. The Legislature should close the gap in the law that does not allow suspicion of alleged abuse and neglect by school personnel to be reportable to the Hotline.

10. There should be greater coordination and cooperation between schools, law enforcement, and the social services district.

11. Substance abuse should be consistently accepted as one of the criteria for establishing child neglect.

### III INVESTIGATION PROCESS AND PROVISION OF SERVICES

Every local social services district is required to establish a child protective service (Social Services Law, Section 423) which is the sole public agency responsible for receiving and investigating all reports from the Hotline of child abuse or maltreatment of children in familial, foster home, and day care settings. After a report is forwarded to the local district, child protective services must commence an investigation within 24 hours and send a preliminary written report to the Hotline within seven days. Within 90 days of receiving the report, the child protective services must then determine whether or not the report is indicated or unfounded.

All reports to the State Department of Social Services or to the local departments are confidential. Unless an investigation of a report determines that there is some credible evidence of the alleged abuse or maltreatment, the report is deemed unfounded and all information identifying the persons named in the report must be expunged from the Hotline and local district offices.

If the report contains credible evidence, the report is then considered to be indicated. When the subject of a report is notified that a report is indicated, he or she may request the Commissioner to amend or expunge the record of the indicated report. If the Commissioner does not expunge the record, the subject has the right to a fair hearing to determine whether or not the record should be amended or expunged on the grounds that it is inaccurate.

Although all reports are confidential, certain specified people (pursuant to Social Services Law, Section 422.4), such as doctors who need information to help a child who is suspected to be a victim of child abuse or neglect, or any person who is named in the report, or a court or a grand jury upon determination that the information is necessary to fulfill its duties, do have access to reports.

Child protective services first must assure the safety and well-being of the child, then develop a plan, including counseling and other community services or foster care, if necessary, to meet the needs of the child and the family, and must monitor cases (with periodic home visits) to ensure the family's compliance with the plan and with court decisions.

## **PROBLEMS: INVESTIGATION AND SERVICES**

The child protective services caseworker must be both police and social worker, investigator and friend, to the child and the child's family. The caseworker must be able to accurately diagnose a problem, work with a sometimes resistant family, know the laws of the State and the rules of evidence and court proceedings, and be able to work cooperatively with hospitals, schools, law enforcement and other service providers. Many social services workers throughout the State expressed similar hardships about their jobs, including overly large caseloads, low salaries, high stress, low morale, and lack of ongoing training and adequate supervisory support.

All these factors result in a high turnover in personnel. Caseworkers employed in the system are, therefore, inexperienced and vulnerable not only to the difficulties of the job, but also to serious mistakes in judgment.

Other problems that emerged include:

1. Services in the community such as counseling, drug and alcohol rehabilitation, and parenting education classes, especially for borderline mentally retarded and disabled parents, have long waiting lists. Caseworkers are very discouraged when in planning programs to help families, they realize that services are often not available in the community.

2. Transportation to services, especially in rural communities, is a very big problem. The local social services districts often do not have a way of getting clients, who might live more than 40 or 60 miles away, to centralized service programs.

3. The problems inherent in the foster care system deeply impact on the Child Protective Services System. In cases where children must be removed from the home, there are not always enough foster homes in which to place them.

4. When a child protective services investigation of a Hotline report produces no evidence of abuse or neglect, the case is regarded as "unfounded", is closed, and the report is expunged. Child protective services workers complain that because the information is expunged, they have no data to use for a subsequent investigation of another report.

5. ~~Child protective workers also complain about the strict confidentiality of substance abuse records of parents. Caseworkers believe that parents who are addicted to illegal substances are neglectful of their children and do not provide a good home for them. They are frustrated that they do not have access to such records.~~

6. Child protective workers feel that their investigations are hampered by a lack of accessibility to records in the Family Court, to records of other child protective services agencies in other states, and to records of medical and counseling services.

7. There is no consistent policy throughout the State regarding children in the home when law enforcement officers respond to a domestic violence complaint. Local police officers might call the local social services district, but more often than not, they do not.

8. Child protective services tend to concentrate their efforts on investigation and not on planning and providing services to children and their families.

9. Special problems were highlighted at the Watertown community meeting with regard to the Fort Drum military base located there, and child protective services. (See Appendix A for further elaboration of these problems.)

#### **PARTICIPANTS' PROPOSED SOLUTIONS: INVESTIGATION AND SERVICES**

The following are the proposed solutions:

1. To retain child protective services workers:

- a. provide scholarships for tuition;
- b. provide salary stipends while attending graduate school;
- c. provide career planning counseling; and
- d. improve supervisory support.

2. To increase the number of foster families available:

- a. provide respite for foster parents;
- b. provide liability insurance for foster parents;

- c. make more day care services available to foster parents; and
- d. enhance recruitment and training of foster parents.

3. The State Department of Social Services should encourage an expansion of services provided to families, including innovative approaches to problems such as decentralizing services in rural communities.

4. Local child protective services should be reimbursed by the State at 75%, as are mandated preventive services.

5. In order to facilitate investigations of Hotline reports by child protective services, the Legislature should:

- a. allow access by child protective services to police, medical, and psychiatric records without subpoena;
- b. allow access by child protective services to Family Court records;
- c. allow reciprocity of child protective services records with other states;
- d. mandate a pro arrest policy in domestic violence disputes; and
- e. require uniform policies with regard to children in the home when law enforcement responds to a domestic violence call.

6. The State Department of Social Services should encourage a team approach for the investigation of abuse and neglect and for service delivery among schools, hospitals, child protective services and other social services agencies, law enforcement, and the court.

#### **IV THE COURT SYSTEM**

The first responsibility of child protective services is to take action to ensure the safety of children. Child protective services must make recommendations regarding appropriate voluntary preventive and remedial actions. If the family refuses to participate in a recommended plan, child protective services may petition the Family Court to require the family to take part in the services and, if necessary, to remove a child from his or her home. Even when a family is willing to cooperate, child protective services may petition the Family Court for a determination that a child is in need of care and protection.

If a child is placed in protective custody, the law requires parents to be notified and to be told where the child is placed. The parents are guaranteed a prompt court hearing, usually within 24 hours, but no longer than three business days (Family Court Act, Section 1024). When reports contain allegations against a person who is not the parent of the child victim, the parents and the alleged perpetrator must be notified in writing of the existence of the report and their rights pursuant to the law.

In a few cases, a subject of a child abuse or neglect report also is accused of a crime involving a child, resulting in a criminal court procedure. In any proceeding in the Family Court or the Criminal Court, a parent or other person alleged to have abused or neglected a child has the right to counsel. If such person cannot afford a lawyer, one is provided at public expense.

#### **PROBLEMS: THE COURT SYSTEM**

Family Court Judges, prosecutors, and law guardians provided major insights into the present procedures in the courts. They described various problems for consideration, including:

1. The abused child, not the alleged perpetrator, is usually the one removed from the home. Abused children are confused and feel punished. These feelings are compounded if they are placed in the same facilities as juvenile delinquents or PINS (Persons-In-Need-of-Supervision), whom

the abused children know, are kids in trouble. As victims of the alleged abuse or neglect, they feel that they have done something wrong.

2. Judges in Criminal Court are not mandated to appoint a counsel to protect the interest of a child.

3. There is a shortage of law guardians, partly as a result of low compensation.

4. A law guardian is often not well prepared because he or she is frequently appointed five minutes before a hearing.

5. A child is frequently asked to relate circumstances of the abuse or neglect over and over again, sometimes to several different people over the course of several weeks. Often, a child will recant a story under pressure from a parent or from the anxiety caused by the judicial experience.

6. Court delays are common and are detrimental to the well-being of a child.

7. In statute, a determination in a Family Court fact-finding hearing that the child is an abused or neglected child must be based on a preponderance of the evidence. However, in abuse or neglect proceedings some judges currently are using the more stringent standard of clear and convincing evidence, which is required in termination of parental rights hearings.

8. Guidelines regarding the treatment of children in court (Child Witness Assistance Act, Chapter 263, Laws of 1986) are discretionary, and many courts do not follow them.

9. In criminal proceedings, there is no precise age at which a child is deemed competent to testify. There is a rebuttable presumption that a child under age 12 is not competent.

#### **PARTICIPANTS' PROPOSED SOLUTIONS: THE COURT SYSTEM**

The judges and attorneys who participated in the community meetings suggested many proposals for the Legislature to take under advisement, including:

1. Perpetrators, not children, should be removed from the home.

2. In all court proceedings, law guardians should be appointed to represent the best interests of children in all court proceedings.

3. To alleviate the shortage of law guardians, the Office of Court Administration should encourage contracting with private attorneys for representation of children.

4. The Office of Court Administration should improve training for law guardians and judges to better handle child abuse and neglect cases.

5. There should be a review of the time schedule of investigations and trials of cases involving child victims in order to expedite the proceedings.

6. Evidentiary rules should be changed to allow expert testimony to be used as corroboration for validation of a child's out-of-court or prior statement in Criminal Court proceedings.

7. Specific standards for fair treatment of child victims as witnesses should be mandated.

8. The Legislature should establish a second sex offense conviction against a child as a felony.

9. More treatment programs for sex offenders should be made available.

10. A child should be permitted to be a witness unless the child's inability to take an oath can be demonstrated.

## **CONCLUSION**

In each and every community there was an overwhelming positive response to the community meetings by all participants. The format provided for a free-flow exchange of ideas and proposed solutions to the pervasive problem of child abuse and neglect. For many participants this was the first time they were able to, as a community, dialogue with others about these issues.

The Subcommittee, under the leadership of Assemblyman Hoyt, plans to take these ideas and put them into laws. In the words of Speaker Perry Duryea, "Laws (however) are only the beginning. They provide a legal and institutional framework for professionals and community people to act."



**APPENDIX A.**  
**THE PROBLEMS OF WATERTOWN/FORT DRUM**

Watertown has some distinct problems because of the presence of Fort Drum, a military base. The military has its own social services organization to help its personnel and their families. Questions of jurisdiction and confidentiality were raised as the main issues requiring resolution in order to promote better cooperation between the community and the military, and to protect the welfare of the children involved.

**PROBLEMS**

A delicate balance must be preserved between the Army and the local child protective services to maintain the best interests of both the soldiers and their children. Some of the problems that were enunciated at the Watertown community meeting include:

1. Concurrent federal and State jurisdiction exists, pursuant to which the army and the local department of social services both investigate reports of child abuse.

2. The local child protective service is not allowed by law to release information regarding its investigations. The military feels that access to the information is important because:

a. If its doctors and social workers knew of a problem in a soldier's family, not only could the military provide service to that family, but the military would also pay for any counseling or other services the family needs.

b. The military has the ability to remove the abuser from the home and into a barracks, instead of disrupting the child's life by moving the child out of the home.

c. The military would make provisions for the continuation of services if the soldier and/or his or her family leaves the community.

3. Although one of the functions of the Hotline is to screen applicants for child care employment, the military cannot access the State's records because the military's day care center is not a program licensed by the State.

## **PARTICIPANTS' PROPOSED SOLUTIONS**

The suggestions proposed in Watertown highlighted the differences of jurisdiction and confidentiality between the military and child protective services. A suggestion was made that the military require potential day care employees, as a condition of employment, to inquire from the Hotline as to whether or not they are the subject of a report.

**APPENDIX B.  
DEFINITION OF CHILD ABUSE**

"Abused Child"\* means a child less than 18 years of age whose parent or other person legally responsible for the child's care:

(i) inflicts or allows to be inflicted upon such child physical injury be other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health, or protracted loss or impairment of the function of any bodily organ; or

(ii) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health, or protracted loss of impairment of the function of any bodily organ; or

(iii) commits or allows to be committed a sex offense against such child, as defined in the penal law; allows, permits or encourages such child to engage in any act described in sections 230.25, 230.30 and 230.32 of the penal law; commits any of the acts described in section 255.25 of the penal law; or allows such child to engage in acts or conduct described in article 263 of the penal law, provided, however, that (a) the corroboration requirements contained therein in the penal law and (b) the age requirement for the application of article 263 of such law shall not apply to proceedings under this article.

**DEFINITION OF CHILD NEGLECT**

"Neglected Child"\* means a child less than 18 years of age:

(i) whose physical, mental or emotional

condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the child's parent or other person legally responsible for the child's care to exercise a minimum degree of care:

(a) in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article 65 of the education law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or

(b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as

set forth in paragraph (i) or  
this subdivision; or

(ii) who has been abandoned, in accordance with the definition and other criteria set forth in subdivision five of section 384-b of the Social Services Law, by his parents or other person legally responsible for his care.

\*N.Y. Social Services Law, Section 412;  
Family Court Act, Section 1012.

**APPENDIX C.  
PARTICIPANTS ATTENDING THE COMMUNITY MEETINGS**

**BINGHAMTON**

Ms. Mary Shaheen, Council on Child Abuse & Neglect

Mr. Robert Ford, Director of Social Services  
Lourdes Hospital

Mr. Terry Ryan, School Psychologist  
Vestal Schools, African Road Junior High School

Ms. Denise Murray, Executive Director  
NYPENN Health System Agency

Ms. Kathy Conboy, President  
Southern Tier Emergency Nurses Association

Ms. Karen Perkins, President, Board of Parents Anonymous

Mr. James Carter, Investigator, New York State Police

Dr. Frank Cleary, Superintendent  
Binghamton City School District

Mr. Joseph Sanfilippo, Commissioner  
Broome County Department of Social Services

Mr. Thomas L. Circio, Executive Director  
Children's Home of the Wyoming Conference

Mr. Daniel Yaeger, Supervisor  
Adolescent Prevention Catholic Charities

Judge Joseph Esworthy, Broome County Family Court

Mr. James Mack, Law Guardian

Rev. William Levering, Vice Chairman  
Community Coordinating Council on Child Abuse & Neglect

Ms. Maryann Bryant, NYS Federation on Child Abuse & Neglect

Mr. Howard Schultz, Broome County Dept. of Social Services

Mr. Chip Hauser, Deputy Commissioner  
Broome County Department of Social Services

Ms. Nancy LaBlanc, Administrative Supervisor CPS  
Broome County Department of Social Services

Assemblyman Richard Miller

Assemblyman James Tallon

Mr. Sanford Berman, NYS Department of Social Services

Dr. Patrick Ruddy, Broome County Coronor

Mr. Thomas Oakes, Deputy County Attorney  
Broome County Department of Social Services

### **BUFFALO**

Angelo Alessandra, Chief of Detectives  
Buffalo Police Department

Lt. Lawrence Peresan, Buffalo Police Department

Mr. J. Patrick Dexter, State University College at Buffalo

Dr. Shepard Goldberg, Child & Adolescent Psychiatric Clinic

Hon. Thomas Higgins, Erie County Sheriff

Ms. Anona Joseph, NYS Department of Social Services

Ms. Karen Schimke, Commissioner  
Erie County Department of Social Services

Dr. Frederick Seidl, Dean  
School of Social Work, State University of NY at Buffalo

Dr. Sun-Ook Baile, Assistant Chief Medical Examiner  
Erie County Medical Center

Ms. Debi Merrifield, Child & Family Services

Ms. Jan Henry, Child & Adolescent Psychiatric Clinic

Ms. Patricia Siracuse, Erie County Sheriff's Department

Eugene Reville, Superintendent, Buffalo Public Schools

Hon. Frank A. Sedita, Jr., Family Court

Ms. Susan Sandinsky, Office of Erie County District Attorney

Dr. Alan Kornberg, Children's Hospital  
Dr. Steven Lazoritz, Children's Hospital  
Ms. Diane Greenaway, Catholic Charities  
Dr. Justin Uku, Erie County Medical Examiner  
Mr. Ralph Degenhart, Commissioner, Buffalo Police Department  
Mr. Carl Johnson, St. Augustine's Center  
Ms. Virginia Purcell, OLV Infant Home  
Ms. Judith Fisher, President, Buffalo Board of Education  
Mr. Ralph Hernandez, Executive Director, Friendship House  
Ms. Joyce Noble, Erie Co. C.P.S.

#### HAUPPAUGE

Mrs. Matilda Cuomo, Honorary Chairperson  
New York State Council on Children and Families  
Mr. Patrick Henry, Suffolk District Attorney  
Mr. Gary Rosenthal, Suffolk District Attorney's Office  
Ms. Hertha Trotto, Bureau Chief  
Suffolk District Attorney's Office  
Ms. Mary Werner, Bureau Chief, Family Crime Bureau  
Suffolk District Attorney's Office  
Mr. Paul McCrann, Director  
Suffolk County Children's Protective Services  
Ms. Alice Amrhein, Commissioner  
Suffolk County Department of Social Services  
Dr. Stewart Dawson, Chief Medical Examiner  
Ms. Carol Wessel, President, Child Abuse Prevention Services  
Ms. Janet Walerstein, Executive Director  
Child Care Council of Suffolk  
Mr. Tom Williams, Director, Brookhaven Youth Bureau  
Mr. Arthur J. Abrams, Supervising Judge  
Suffolk Family Court



Ms. Jane Corrariano, Suffolk County Department of Health  
Ms. Helen Magnuson, Regional Coordinator, Parents Anonymous  
Ms. Diane Wine, Little Flower Children's Services  
Ms. Carol Forgash, Suffolk Co. Organization to Promote  
Education (SCOPE)  
Ms. Jeanine Signorelli, President, Suffolk Chapter A.C.S.W.  
Mr. George Andreozzi, Assistant to Superintendent for  
Special Services, Smithtown Central School District  
Mr. Reinhardt Van Dyke, Jr., Executive Director  
Ms. Pamela Johnston, Executive Director  
Victim's Information Bureau of Suffolk, Inc.  
Mr. Eugene Dooley, Suffolk County Sheriff  
Mr. Edward A. Parker, Law Guardian  
Mr. Glenn Hirsch, Administrator  
Community Hospital of Western Suffolk  
Ms. Noreen Kelly, Community Hospital of Western Suffolk  
Det. Lt. George Sloan, S.C.P.D.  
Det. Sgt. Rita Ahl, S.C.P.D.  
Chief Arthur Feldman, Chief of Detectives, S.C.P.D.  
Dr. Edward Milliken, District Superintendent  
BOCES, 2nd Supervisory District  
Dr. William H. Weir, Jr., President  
Suffolk County Medical Society  
Ms. Evelyn Roth, Deputy County Executive for Human Services  
Mr. Fredric Cantlo, Metropolitan Regional Office  
NYS Department of Social Service  
Ms. Anona Joseph, NYS Department of Social Services  
Mr. Frank Ryan, Regional Representative  
NYS Department of State

## POUGHKEEPSIE

Mr. John Battistoni, III, Commissioner  
Dutchess County Department of Social Services

Ms. Anona Joseph, NYS Department of Social Services

Judge George Berhard, Dutchess County Family Court

Sr. Mary Burns, Executive Director  
Astor Home for Children

Ms. Jamie Farrell, Dutchess County Health Department

Ms. Donna Zulch, Clinician

Mr. John Murdock, Assistant Executive Director, Astor Clinic

Ms. Pamela Sachett, Director  
Task Force for Child Protection

Dr. Rita Jaeger, Pediatric Consultant

Mr. Loring Black

Mr. James Clark, Superintendent  
City of Poughkeepsie School District

Ms. Margaret Happel, City of Poughkeepsie School District

Ms. Eleanor Andrews, Director  
Dutchess County Child Protective Services

Ms. Roberta Sheehan, President, Interfaith Council

Mr. Donald Murphy, Executive Vice President  
St. Francis Hospital

Ms. Susan Ricabono, St. Francis Hospital

Mr. Frank Falanga, Dutchess County Schools, B.O.C.E.S.

Det. Lieut. J.L. Thompson

Mr. Frank Dwyer, Executive Director  
Children's Home of Poughkeepsie

Ms. Betsy Bhartiya, Department of Social Work  
Vassar Brothers Hospital

Ms. Marjorie Smith, Assistant District Attorney

Mr. Stewart Bowles, Chief, City of Poughkeepsie Police

Ms. Liz Frank, Counselor  
Juvenile Division, City of Poughkeepsie Police

Mr. Gary Sheeley, Detective  
Juvenile Division, City of Poughkeepsie Police

Dr. Lynne Liptay, President, Pediatric Society

#### **WATERTOWN**

Mr. Ronald Amyot, BCI NYS Police

Mr. Donald Alexander, Ft. Drum Steering Council

Dr. Virgilio Alon, County Medical Examiner, Mercy Hospital

Ms. Jean Alhouse, Director, Women's Center

Capt. Robert Ashpole, Administrative Law Division  
HQ 10th Mountain Division

Dr. Floyd Bajjaly, Mercy Hospital

Mr. Sanford Berman, Director  
NYS Central Register, NYS Department of Social Services

Ms. Janice Charles, Director  
North Country Children's Clinic

Judge Lee Clary, Jefferson County Court

Mr. Phil Compeau, Assistant Director  
Ft. Drum Steering Council

Mr. David Crechanowski, Chief of Army Community Services  
HQ 10th Mountain Division

Mr. Warren Fargo, Superintendent  
Watertown City School District

Mr. John Dietrich, Family Advocacy Manager  
HQ 10th Mountain Division

Ms. Amy Gardner, House of the Good Samaritan

Ms. Louise Haraczka, Parents Anonymous

Ms. Jean Heady, Director of Patient Services  
Jefferson County Public Health Nursing  
Police Chief Michael Hennigan, City of Watertown

Capt. Mary Hillis, Chief of Social Work Services  
HQ 10th Mountain Division

Judge Richard Hunt, Family Court

Mr. Robert J. Kayser, President/Chief Executive Officer  
House of the Good Samaritan Hospital

Mr. Jack Klump, Syracuse Regional Office

Mr. Leonard R. Marsh, Hiscock and Barclay Law Firm

Mr. Gary Miles, Jefferson County District Attorney

Ms. Lisa Negro, Jefferson County Dept. of Social Services

Sheriff Donald Newberry, Jefferson County Sheriff's Dept.

Assemblyman Robert Nortz

Ms. Dawn Remington, Jefferson County Public Health Nursing

Terry Roche, Ft. Drum Steering Council

Ms. Amy Saiff, Board of Education  
Watertown City School District

Mr. Kenneth Spink, Deputy Director of Personnel  
HQ 10th Mountain Division

Larry Tingley, CSW, Director  
Jefferson County Community Services

Ms. Judy Van Patten-Semione, Director  
Jefferson County Child Protective Services

Ms. Jean Wagoner, Commissioner  
Jefferson County Department of Social Services

Assemblyman John G. O'Neil

Ms. Ginny Harrington, Jefferson County Youth Bureau

Mr. James Wright, County Administrator

Mr. Archie Brick, Child Advocate Program

Lt. Gary Pastor, Watertown City Police

Ms. Nancy Crast, Jefferson City BOCES

Rev. Francis Bradley, Child Advocate Program