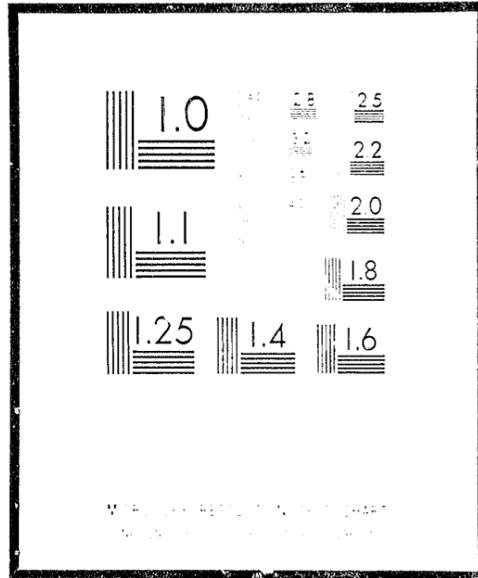


NCJRS

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed 5/27/76

loan document



32333-C.8
32333

Prescriptive Package

CHILD ABUSE INTERVENTION

APPENDIXES

- I Annotated Bibliography on Child Abuse
- II Issues and Questions Addressed in the Prescriptive Package on Child Abuse Intervention
- III Description of On-Site Visits
- IV Nashville's Comprehensive Emergency Services Program
- V Analysis of the American Humane Association Data Collection Form for the National Clearinghouse on Child Neglect and Abuse (NCCNA)

NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
P.O. Box 24036, S.W. Post Office
Washington, D.C. 20024

APPENDIX I

ANNOTATED BIBLIOGRAPHY ON CHILD ABUSE

CONTENTS

I. SOURCES OF ABUSING BEHAVIOR	I-1
A. Societal and Intra-family Violence	I-1
B. The Environment and Dynamics of Child Abuse	I-5
C. Characteristics of the Abused Child and Abusive Parent	I-15
II. COMMUNITY INTERVENTION	I-28
III. LEGAL INTERVENTION	

INDEXES

Authors Index	I-117
Title Index	I-123

Addendum

Additional References Cited in the Prescriptive Package	I-133
------------------------------------------------------------	-------

I. SOURCES OF ABUSING BEHAVIOR

A. Societal and Intra-family Violence

- (1) • Erlanger, Howard D. The Anatomy of Violence: An
(B) Empirical Examination of Sociological Theories of
Aggression. Ann Arbor: University Microfilms,
1971.

Interview data from a national sample of 1,200 American adults were used to outline the distribution of interpersonal violence in the United States and to examine empirically the major sociological theories of violence. There are two major theoretical perspectives, both assuming a continuity between minor and severe forms of aggression and an absence of physical aggression among white middle and upper classes, but having radically different policy implications. Cultural theory holds that violence is a positively sanctioned way of life, while viewing the state of affairs within violent communities as pathological. Structural theory conceptualizes violence as a situational adaptation to stressful life conditions. The primary finding from the empirical data is that of a discontinuity between minor and extreme forms of aggression. Serious aggression was found to be strongly related to class and race, but minor forms were not. Approval of the use of violence under various circumstances showed no clear relationship to class or race. The relationships between ordinary childhood socialization and child abuse, between an individual's own socialization experiences and subsequent aggressive acts as an adult, and between economic frustration and approval of physical aggression must ultimately be explained in terms of the extreme social conditions to which offenders have been subjected.

- (2) • Daniels, David V., et al. Violence and the Struggle for
(C) Existence. Boston: Little, Brown, and Company,
1970.

From a review of the literature it is concluded that physical punishment by parents most likely encourages the violent behavior of children. Punishment both frustrates the child and gives him a model to imitate and learn from. The learning of violence through modeling applies to more than just parental behavior. It is also relevant to examples set by the mass media, peer or other reference groups, and local and national leaders.

- (3)• Gelles, Richard J. and Straus, Murray A. "Toward an Integrated Theory of Intrafamily Violence." Presented at NCFR Annual Meeting: October 22, 1974.

The authors have spent four years exploring empirical and theoretical data pertaining to interpersonal violence, resulting in an hypothesis that there is a special case for family violence requiring its own theoretical explanation. This paper presents a statement of this perspective and the steps that will be taken to further develop an integrated theory of family violence.

The authors have inventoried thirteen theories of interpersonal violence having some relevance for understanding violence between family members. These are as follows:

Intra-Individual Theories

1. Psychopathology - an internal abnormality.
2. Alcohol and Drugs - as disinhibitive stimuli.

Social-Psychological Theories

3. Frustration-Agression - organisms aggress toward blockages in their functioning (family as locus of frustration).
4. Social Learning - interactive norms which may approve violence.
5. Self-Attitude - deviance as a means for attaining positive self-image.
6. Clockwork Orange - an assumed optimal tension is not met (boredom).
7. Symbolic Interaction - the construct of violence (dynamics and cycles).

Socio-Cultural Theories

8. Functional - violence as indicator of achievement, danger signal, and catalyst for action.
9. Culture of Violence - differential cultural norms and learned response.
10. Structural - differential distribution of some main causes of violence and of learning experience and values.
11. General Systems - violence as a product of the family 'system', with positive feedback processes producing an upward spiral.
12. Conflict Theory - individuals seek out their own interests; violence is a means for carrying out conflict and producing change.

13. Resource Theory - violence is force; the greater a person's outside resources, the less he will have to deploy violence, for he will have other forces at his disposal.

The authors believe that a special theory for intra-family violence is necessary because of the extent of the phenomenon and the special nature of the family, as structure and as institution. Violence as a major factor in American family life has not been extensively documented, but certain findings indicate that it is not an isolated phenomenon. There may well be special aspects of facets of the family which make it especially violence prone. Suggested here are the aspects of differential statuses and roles, conflicting normative expectations, the duration of commitment to the group, the intensity of emotional involvement, and the relative isolation of the American family. It is also posited that the dyadic relationship of husband and wife is inherently unstable, as is the delegation of roles based on age and sex, rather than interest and competence.

The material presented is the first step in developing an integrated theory of intrafamily violence; the future direction will be:

- Phase 2 - to reformulate these theories and examine the plausibility of their application to the family (designed to clarify the logical structure of each conceptually).
- Phase 3 - logical manipulation of Phase 2 to extend and modify the theories.
- Phase 4 - empirical studies to test applicability of Phase 3.
- Phase 5 - integration/synthesis.

- (4)• Gil, David G. Violence Against Children. Cambridge, Massachusetts: Harvard University Press, 1970.

There exists in American society a "cycle of violence" which partially sanctions individual acts of violence against children by association with collective acts against them--poverty, discrimination, and "spare the rod, spoil the child" child-rearing practices. The author relates the inability of society to come to terms with the phenomenon of child abuse to an ambivalent and ambiguous attitude towards children.

His definition of physical child abuse is based on the behavior and motivation of the perpetrators rather than on injuries sustained by the child in an attempt to conceptually clarify the problem:

Physical abuse of children is the intentional, non-accidental use of physical force, or intentional, non-accidental acts of omission on the part of a parent or other caretaker interacting with a child in his care, aimed at hurting, injuring or destroying that child.

The results of two studies are examined. Physical child abuse is characterized as a multidimensional phenomenon having uniform symptoms but diverse causation. The author recommends intervention at the casual level--systematic reeducation of the American public, and high-level, neighborhood-based social services.

- (5) • Owens, David J. and Straus, Murray A. "The Social Structure of Violence in Childhood and Approval as an Adult." Presented at the 1973 meeting of the American Orthopsychiatric Association.

Presented are findings consistent with the social structural theory of violence. The aspect of the structural theory of violence considered in this paper is the social learning and role modeling which takes place in childhood: (1) the more violence present in the social structure during childhood, the more the person learns to use violence; (2) for any set of behaviors which is characteristic of a population, there will develop a normative counterpart which rationalizes and justifies that behavior; (3) assuming the validity of proposition (2), and taking the data presented in this paper as evidence supporting proposition (1), it is concluded that the culture of violence characterizing American society is, at least in part, attributable to the high level of violence experienced during the formative years of childhood. It follows that segments of the society which have high levels of violence will also have a culture which justifies and supports violence. This is the "culture of violence". However, it also follows that efforts to alter the level of violence in these sectors of society by "educational" and other activities designed to change the culture are not likely to be successful unless the underlying "social structure of violence" can be altered.

B. The Environment and Dynamics of Child Abuse

- (6) • Bennie, E. H., and Sclare, A. B. "The Battered Child Syndrome," American Journal of Psychiatry 125(7): 975-979, 1969.

Aggression/sadism comes from disturbed marital and domestic relationship. High level of stress in family environment. (Confirms Gregg and Elmer's findings re: environmental stress.) Lack of knowledge of the developmental skills of children results in excessive behavior demands.

- (7) • Boisvert, Maurice J. "The Battered Child Syndrome," (C) Social Casework 53(8):475-480, October, 1972.

Confirmation of Delsordo's categories in analysis of a sample of 20 cases. Also used Zalba's typology.

- a. When can children safely be left with their parents?
- b. When should they be separated from their parents?
- c. When can parents, with proper treatment/services be safely reunited with their children?
- d. What incidents are controllable? Uncontrollable?

- (8) • Brody, Grace F., "Socioeconomic Differences in Stated Maternal Child-Rearing Practices and in Observed Maternal Behavior," Journal of Marriage and the Family 30(4):656-660, 1968.

A pattern of socioeconomic differences results from comparison of two socioeconomic groups regarding stated maternal child-rearing practices and observed mother-child interaction. It was found that the middle-class mothers tended to use a more stimulating and emotionally warm mode of child-rearing, with emphasis upon the child's achieving autonomy through satisfactions from his own efforts rather than through maternal rewards and punishments. The working-class mothers, on the other hand, tended to play a more passive and less stimulating role with the child, with more emphasis upon control through rewards and punishments. These differences have apparently persisted in spite of the homogenizing influence of the child-rearing education offered by the mass media. The implications of these different patterns of socialization may have considerable significance for the

future destiny of the child. It would seem that the middle-class child is being prepared, emotionally and cognitively, for a role emphasizing inquiry and achievement, while the working-class child is being prepared for a role emphasizing acceptance and conformity.

- (9) • Brofenbrenner, Uri. "Socialization and Social Class Through Time and Space." Maccoby, Elenor E. et al. eds. Readings in Social Psychology. New York: Holt, Rinehart and Winston, 1958.

The results of several studies show that working-class parents are consistently more likely to use physical punishment in their socialization while middle-class parents rely more on reasoning, isolation, appeals to quiet, and other methods involving the threat of loss of love.

- (10) • Brown, John A. and Daniels, Robert. "Some Observations on Abusive Parents," Child Welfare 47(2): 89-94, 1968.

The focus of this study is on the motivational dynamics leading to child abuse within a family structure. Invariably, child abuse is accompanied by other problems in the family which the behavior of the child reactivates. These are a configuration of psychological needs, intellectual limitations, social pressures, and economic adversities, describing a family structure badly in need of support and additional resources. Social workers have traditionally tended to identify with the shock value inherent in the situation and ignore positive work that can be done with the parents. Unless this tendency is recognized, social workers may be looked upon as punishing agents rather than helping professionals.

- (11) • DiLissovoy, Vladimir. "Child Care by Adolescent Parents," Children Today 2(4):22-25, July-August, 1973.

Reports of a recent longitudinal study of marital adjustment where high school-aged parents in rural Pennsylvania were tested for their knowledge of basic developmental norms in children. Results indicate that a significant percentage of these parents have

unrealistic or erroneous ideas about the developmental norms of young children. Eighty percent mentioned physical punishment as a method of control of children. Recommends parent education and counseling services for outlying communities.

- (12) • Delsordo, James D. "Protective Casework for Abused Children," Children 10(6):213-218, November-December, 1963.

Delsordo devised five categories for the classification of abusive parents:

Category	Intervention
1. Mentally ill	Termination of rights
2. Overflow abuse	Termination of rights
3. Battered child	Termination of rights
4. Disciplinary abuse	Agency intervenes with service
5. Misplaced abuse	Agency intervenes with service

1. Abusers found to be mentally ill are unfit parents who need hospitalization and psychiatric treatment. Termination of parental rights may be indicated in these cases.
2. Parents exhibiting overflow abuse are unable to cope with "...their own frustrations, irresponsibility, and lack of belief in themselves and anything else." They compensate by abusing anyone or anything, especially a child, who becomes a burden for them. They lack the mental and physical energy necessary to establish a healthy family environment. Termination of parental rights is suggested.
3. The parents of battered children regard the child as a competitor or a special burden and feel that he must be made to suffer or even be destroyed. These parents frequently project their own undesirable traits onto the child. They are typically dependent personalities. Delsordo believes that since they can seldom be rehabilitated, their parental rights should be terminated.

4. Parents who practice disciplinary abuse rely on stringent physical punishment to "correct" the child's real or imagined transgressions. These faults are often beyond the child's control and the punishment may be extreme - much more severe than the ordinary spanking - and may result in damage to internal organs or brain damage in infants. Delsordo feels that most of these parents can be treated successfully through intervention. Duncan (1973) believes that essentially the same type of abuse can occur in school districts which permit corporal punishment.

5. Misplaced abuse is the result of displaced aggression. For example, a woman who is beaten by her husband may abuse her child rather than show aggression toward the husband. Delsordo believes that these parents can be helped through counseling and effective social work.

- (13) • Fontana, Vincent J. Somewhere a Child is Crying: Maltreatment--Causes and Prevention. New York: Macmillan, 1973.

This book provides a survey of the problem of "maltreatment" in the U.S. and especially in New York City, and an impassioned plea for more public and private efforts at prevention and treatment. Abuse and neglect are placed under the same rubric. "Any treatment by which a child's potential development is retarded or completely suppressed, by mental, emotional or physical suffering, is maltreatment, whether it is negative (as in deprivation of emotional or material needs) or positive (as in verbal abuse or battering)."

Observations are from the vantage point of pediatrics and emergency rooms of a very large urban hospital serving a great many poor people. The author discusses various diagnostic signs, ranging from subdural hematomas and old fractures to malnutrition. The author believes that, at the time of writing, at least 150 children die in New York City alone each year of maltreatment. He links abuse to increasing and pervasive violence in this country, and believes the prevalence of abuse, grossly underestimated, is rising steadily beyond what can be accounted for by improving detection and statistics.

Case illustrations of abusive family dynamics are presented, and the book reviews the problems of organizing a community for preventative and ameliorative action. An interesting attempt at offering inpatient group treatment to grossly neglectful mothers is described, with puzzle-ment both as to how to make it more effective, and how to get such women to accept the help offered. Data, examples, theories, and possible solutions are presented in what is substantially a book directed at the general reader.

- (14) • Giovannoni, J.M. and Billingsley, A. "Child Neglect Among the Poor: A Study of Parental Adequacy in Families of Three Ethnic Groups," Child Welfare 49:196-204, 1970.

One hundred eighty-six low-income, black, Caucasian, and Spanish-speaking mothers were interviewed in-depth once about their past and current life situations to learn more about what makes a parent neglectful when income is kept constant. Mothers within each ethnic group were prejudged from past case histories as adequate, potentially neglectful, and neglectful.

Findings showed that social and familial backgrounds did not significantly differentiate neglectful mothers. However, the current life situation of the neglectful mother was considerably more stressful than that of the adequate mother. The neglectful mother was more likely to have had more children, to be without a husband, to have had recent marital problems, to have even less money and less material resources for caring for children. Neglectful mothers were more isolated within the community than the adequate mothers, and had a less supportive relationship with their kin.

Concerning child rearing, the primary differentiation between the neglectful and adequate mothers was in the acceptance of, and meeting the needs of very young children. Ethnic variations noted within the study underscore the importance of learning about families in their ethnic context. This study concludes that factors that differentiate neglectful mothers from their socioeconomic peers are more severe current life conditions rather than familial or social

background. Treatment implication would seem to be more manipulation of the environment of the neglectful mothers providing some of the minimal necessities for them to become more adequate.

- (15) • Kadushin, A. Child Welfare Services. New York: Macmillan, 1974.
(A)

Kadushin gives a good summarization, incorporating most of the standard literature. Among other things, he mentions the additional strain imposed on workers by dealing with less voluntary and less rewarding clients seen under the conditions of protective services; the problems communities have in defining neglect when we do not know all that much about what care is desirable for all children, given the variations that occur; the fact that belief in parental rights is such that most people are unlikely to favor removal of the child for anything but physical abuse or dire physical neglect, etc. He estimates the proportion of neglect to abuse may be as high as ten to one. Attitudes toward the abusive parent tend to be more punitive than those toward the neglectful. The author lists a number of newer treatment trends, such as emphasis on case-findings, setting up "emergency parents" services (in Buffalo), joint services (mentions JPA in Chicago), use of many practical supports in addition to casework, etc. Kadushin turns out to be the source of an idea encountered elsewhere:

Neglect appears to be a response to social stress. More often than not, the neglectful mother has no husband, is living on a marginal income and in substandard housing, and is responsible for the care of a typically large family of children.

Abuse appears to be a response to psychological stress. The parent is reacting to internal conflicts, selects one child in the family as a victim and responds to his misbehavior in a disproportionate manner. Families referred for protective service are generally socially isolated families (p. 283).

The author notes the increasing public agency responsibility in this area and the diminishing private agency role.

- (16) • Le Masters, E. E. "Parenthood as Crisis." In M. Sussman, ed., Sourcebook in Marriage and the Family. Boston: Houghton Mifflin Co., 1968.
(A)

Drawing on interviews with couples, Le Masters shows how the introduction of a third person into the dyadic relationship produces a crisis. Forty-eight couples were interviewed informally. Subjects had to be married, 25-30 years of age, middle class, with one or more children. Eighty-three percent reported crises in adjusting to the first child, although almost all children had been planned. Almost all rated their marriages as good, ratings confirmed by friends.

Couples appeared to have romanticized parenthood. Reported such problems as loss of sleep; exhaustion; extensive confinement to the home; additional washing; unemployment for the mother. Mothers with professional training and experience suffered extensive or severe crisis in every case. The transition to parenthood destroys the two-person, pair pattern of interaction and forces reorganization into a three person group system. The husband no longer ranks first in claims upon his wife.

- (17) • Meier, E. G. "Child Neglect." In N. E. Cohen, ed. Social Work and Social Problems. New York: National Association of Social Workers, 1964.

Among parents who are neglectful or in danger of becoming neglectful are those overwhelmed by external pressures and those unaware of community standards of care. There are also those with severe defects in ego development. Many aspects of the social worker's training--e.g., permissiveness, acceptance, explorations of client's own deprivations--are inappropriate to the task of working with client with ego defects who may require limits and use of authority. Describes some situations in which neglect is likely to occur, and which call for possible preventative action. Argues for prevention of drift in foster care, and for placement of children soon where possible.

- (18) ● Pavenstedt, E. "The Meaning of Motherhood In a Deprived Environment." In E. Pavenstedt and V. Bernard, eds., Crises of Family Disorganization: Programs to Soften Their Impact on Children. New York: Behavioral Publications, 1971, pp. 59-74.

This chapter describes a program the author was involved in in 1966-67 in greater Boston area, a large low income housing project. A comprehensive physical and mental health care program was organized with a particular interest in "primary prevention, through introducing and fostering child-rearing modalities that will contribute to normal development toward maturity, and thereby help prepare the next generation of adults to assume an active role in their families and their communities" (p. 60). The author states her impressions after interviewing numerous mothers. She concludes that placement of a child is probably a poor alternative, even poorer than allowing the child to remain in a chaotic home environment with inadequate parenting. "Mental retardation is present in the largest group of families that give us constant concern. Psychosis of a parent or the mental breakdown of a grandparent during the parent's childhood is the next most frequent finding. Another recurrent event is the history of orphanage or foster home placement of the mother early in life. It is precisely this finding that has led one to question reliance on placement away from home as a treatment measure. Most of the mothers who were placed during their childhood are extremely fragile; they have little energy to cope with their family or are chronically depressed or both" (p. 66). When placement occurs "both parents and children experience it as being dispossessed of their rights by an authoritarian society. They see their mothers totally shorn of power to protect them, and their feelings of powerlessness and worthlessness are intensified" (p. 66). The goal at Columbia Point then is to establish programs that complement child-rearing at home.

- (19) ● Polansky, N. A., De Saix, C., and Sharlin, S. A. (A) Child Neglect: Understanding and Reaching the Parent. New York: Child Welfare League of America, 1972.

This is a small book for a particular audience. It is aimed at the front-line child welfare or protective services worker, especially in a rural county, who may be confronted with child neglect,

who has had no graduate social work education and little specific training for the task. The book offers a summary statement on the community's attitude about neglect, followed by some principles in psychodiagnosis. The point is made that most neglectful mothers fall into the range labeled "infantile personality." Five types of neglectful mothers are identified: the apathetic-futile; the impulse ridden; the mentally retarded; the mother in a reactive depression; and the psychotic (including the borderline personality organization). In each instance, typical etiologies, sequelae in children and suggestions for treatment are offered. The final chapter offers guides to treatment including: making initial contact; critical decisions; use of authority; fostering dependency; and working toward improving verbal accessibility.

Of particular importance in this book is the authors' conclusion* that the apathy-futility syndrome reflects a pervasive, deep-seated, and early damage in the maternal personality which is very difficult to reverse in adult life. Seen as a defense against even deeper infantile depression and anxiety, the pattern resists change.

- (20) ● Polansky, N. A., and Polansky, N. F. (A) "The Current Status of Child Abuse and Child Neglect in This Country--1968." Report to the Joint Commission on the Mental Health of Children, Washington, D. C., University of Georgia. (Typewritten.)

The twofold aims of this report were to summarize what was currently known about child abuse and child neglect and to derive recommendations for action. The focus was on the parents, the rationale being that the phenomena of child abuse and child neglect are best understood in terms of the parents, especially the mothers.

The abusive parent was generally described as one who has a drive to destroy his child. He shows the following characteristics: immature personality; no remorse at his behavior; refusal to seek or allow

*See also: Polansky, N.A., Borgman, R.D., and De Saix, C. Roots of Futility. San Francisco: Jossey-Bass, Inc. 1972.

outside help; repetitiveness in his abuse; and neglect or abuse in his own childhood. The first concern in handling is protection of the child.

The lack of knowledge and lack of statistics in the area of child neglect was astonishing. Problems in identification of neglect were discussed. Neglectful families are very similar to "multiproblem families" and as resistant to improvement.

The authors conclude that in neglectful families there is a progressively primitive level of personality development and style of life. Due to the stubbornness of the problem, the authors recommend that inpatient treatment be considered the treatment of choice even though it is usually unavailable now.

C. Characteristics of the Abused Child and Abusive Parent

- (21) • Barbero, G. J. and Shaheen, E. "Environmental Failure to Thrive: A Clinical View." Journal of Pediatrics 71:639, 1967.

A clinical syndrome differing from other instances of growth failure by its lack of obvious organic causes. Diagnostic criteria for failure to thrive are discussed as follows: 1) "Weight below third percentile with subsequent weight gain in the presence of appropriate nurturing"; 2) "Developmental retardation with subsequent acceleration of development following appropriate stimulation and feeding"; 3) "No evidence of systemic disease or abnormality nor from laboratory investigation to account for the initial growth failure." Some patients exhibit anorexia, diarrhea or vomiting. In children with "failure to thrive" syndrome these symptoms characteristically improve with hospitalization. 4) "Clinical signs of deprivation which improve with a more nurturing environment," i.e., cradle cap, severe diaper rash, impetiginous skin lesions. 5) "Significant environmental psychosocial disruption." It is suggested that rather than using "diagnostic exploration of family disturbance" as a last resort, which is common, it be initiated early along with exploration of possible physical illnesses as a part of the differential diagnosis. Failure to thrive seen as long time antecedent to abuse in some instances.

Author stresses non-judgmental approach with families, their involvement in the child's treatment and with the doctor, as well as with a social worker and others. When the child does so well in the hospital, this can be an added threat to the parents unless handled carefully. "In cases of failure to thrive, the authors have found that the degree to which the parents can relate to the physician and other caretakers seems to correlate directly with the potential for ultimate well-being for the child within the home."

- (22) • Barbero, G. J., Morris, M. G., Redford, M. T. "Malidentification of Mother-Baby-Father Relationships Expressed in Infant Failure to Thrive." The Neglected-Battered Child Syndrome. New York: Child Welfare League of America, 1963.

Twenty-eight children were admitted to Children's Hospital of Philadelphia in 1961 with a provisional

diagnosis of failure to thrive. Upon examination, 13 were found to have organic causation, but 15 showed no specific disturbance. After intensive treatment, all 15 survived. New mothers who already have inadequate self-images of their mothering capacities perceive their newborn not as a helpless infant but as a critical judge of their mothering capabilities; feeling so threatened they are then unable to meet the infant's physical and emotional needs. The behavioral patterns of the infants were similar to those of Spitz in work on anaclitic depression. Barbero says, "These infants showed apprehension, sadness, loss of contact, rejection of environment, withdrawal, retardation or regression of physical and personality development, slowness of movements, and apathy. Also they refused to eat, lost weight, were irritable, vomited and had diarrhea."

The mothers manifested four diagnostic signs: 1) An inability to find something of value in her child that she values also in herself; 2) Identifying the baby with unloved traits of the father; 3) Recurrently suggesting some physical defect in the infant when there is none revealed by physical examination; and 4) A continual plea for new and better child care methods.

The authors had good success with treatment, and urge an objective, non-threatening, non-punitive team approach.

- (23) • Berlow, Leonard. "Recognition and Rescue of the 'Battered Child'," Hospitals, Journal of the American Hospital Association 41(2):58-61, January 16, 1967.

Berlow gives the symptoms and characteristics of the Battered Child Syndrome. Signals of child abuse, observed in both parents and child, are given. Author recommends compassion for the parents and treatment which corrects damaged parent-child relationships. Berlow makes recommendations for a "team" structure within the hospital to deal with child abuse.

- (24) • Caffey, John. "The Parent-Infant Traumatic Stress Syndrome: (Caffey-Kempe Syndrome), (Battered Baby Syndrome)," American Journal of Roentgenology, Radium Therapy and Nuclear Medicine 114:218-229, February, 1972.

Child abusers are usually of normal intelligence, representative of all races, creeds, cultural, social, and educational levels, and distributed proportionately throughout the country. Victims usually are normal infants, but a higher incidence of abuse may be found among provocative, deformed, premature, multiple-birth, adopted, foster, and step children. Typically, they are not neglected or deprived of medical care, and are almost always well-fed, clothed, and clean.

- (25) • Cherry, Barbara J., and Kuby, Alma M. "Obstacles to the Delivery of Medical Care to Children of Neglecting Parents," American Journal of Public Health 61:568-573, March, 1971.

Discussion of the anecdotal problem of records on observations of the Bowen Center Project (Chicago), in delivering service to 36 families, particularly medical care, to "multiproblem" and "hard to reach" families. Found that most services to children are based on the erroneous premise that parents are, by definition, mature adults. Characterizes mothers as "drop outs" or "left outs"--the drop outs perceive the therapy efforts as too expensive, either financially or emotionally, while the left outs are emotionally disturbed and seek no help even though it is available.

- (26) • Cohen, Michael I., Raphling, David L., and Green, Phillip E. "Psychologic Aspects of the Maltreatment Syndrome in Childhood." Journal of Pediatrics, August, 1966.

The purpose of this study was to focus attention on the psychological motivation dynamics of abusive parents by following 12 children of different families over a two-year period. All abusive parents were found to be emotionally immature; refusing to accept responsibility as adults and, therefore, viewing their child's dependent position as both a threat and a source of envy. As in Fontana et al., these authors note a lack of neurotic or psychological illness, although there are frequent episodes of aggression in the history of the parents.

- (27) • Court, Joan, and Kerr, Anna. "The Battered Child Syndrome" - 2 Nursing Times 67(23):695-697, 1971.
(B)

The signs and symptoms that serve to alert nurses and other health professionals to possible cases of the battered-child syndrome are reviewed and some aspects of parental treatment are discussed. The mother who is seen frequently at the child-welfare clinic with vague complaints about her infant should arouse suspicion. It is at that stage that tragedy can be averted by understanding and sympathetic inquiry by the health visitor or nurse. If the mother's confidence is gained and the suspicion confirmed, arrangements are made for her to see a doctor. The primary characteristic of battering parents seems to be a history of deprivation. It is from that basis that treatment begins. Since these parents experienced inadequate or harmful mothering, they need a period of good mothering themselves before they can provide properly for their own children. Treatment is best supplied by a multidisciplinary approach with one worker acting as the primary mother figure.

- (28) • Ebbin, Allan J., et al. "Battered Child Syndrome at the Los Angeles County General Hospital," American Journal of the Diseases of Children 118: 660-667, October, 1969.
(C)

The authors studied 50 children who presented confirmed parentally inflicted injuries or had records of prior injuries probably inflicted by parents. The ages of the victims ranged from 1 month to 14 years and, by sex, were divided 44% female and 56% male which approximated the population proportions in the outpatient clinic. The ethnic proportions were significantly different than the outpatient population at the .001 level with whites and Blacks overrepresented and Mexican-Americans underrepresented. This difference, according to the authors, may be attributable to the fact that the hospital is used as an emergency service on a county-wide basis which would include a much larger group of whites than normally served by the hospital. In 50% of the cases prior injury was evidenced.

The authors noted that the physicians who reported these cases to the police became involved in lengthy police and court proceedings.

- (29) • Gregg, Grace S., and Elmer, Elizabeth. "Infant Injuries: Accident or Abuse?" Pediatrics 44: 434-439, September, 1969.

The authors categorized 113 cases involving infants under 13 months into accidental injuries or injuries resulting from abuse. Abuse was judged by three criteria: (1) adequacy of accident history; (2) report or admission of abuse; (3) injuries incurred at more than one time. The "abused" group, when compared with the "accidental" group, tended to come from lower socio-economic families and families with more children. The parents of the abused group indicated a higher lapse in child care than those of the accident group, seventy-six percent of the former compared with 13 percent the latter group. The most outstanding characteristics of the infants in the abused group was the presence of developmental retardation (50 percent of the group).

- (30) • Kempe, C. Henry, and Helfer, Ray E., editors. "The Child's Need for Early Recognition, Immediate Care and Protection," Helping the Battered Child and His Family, Lippincott, 1972, Chapter 5.

The great majority of child abuse cases first appear either in the emergency room or the pediatrician's office. There are enough symptomatic variants so that abuse can only be diagnosed in a hospital setting -- all cases of suspected child abuse should be admitted for further examination. The authors note that the potential for child abuse can often be identified in mothers-to-be, especially if she has attempted to induce abortion, obviously does not want the child, or expects fulfillment of her emotional needs through motherhood. The first few minutes of mother-baby interaction and interactions during the routine 6-10 week well-baby check-up can be important clues to future child abuse.

- (31) • Kempe, C. Henry, et al. "The Battered Child Syndrome," Journal of the American Medical Association 181 (1):17-24, July 7, 1962.

The battered child syndrome is a term used to characterize a clinical condition in young children who have received serious physical abuse, generally from a parent or foster parent, and is a significant cause of childhood disability or death. The clinical manifestations of the trauma vary widely, and the lesser degrees of trauma may often have resulted from failure to thrive or another cause, or have been produced by a metabolic disorder, an infectious process, or some other disturbance. In these cases, specific findings of trauma such as bruises or characteristic roentgenographic changes may be misinterpreted and their significance not recognized. A major diagnostic feature of the syndrome is a marked discrepancy between clinical findings and the historical data supplied by the parents; and the syndrome should be considered in any child exhibiting evidence of fracture to any bone, subdural hematoma, failure to thrive, soft tissue swellings or skin bruising, in any child who dies suddenly, or where the degree and type of injury is at variance with the history given regarding the occurrence of the trauma. Psychiatric factors are probably of prime importance in the pathogenesis of the disorder, but knowledge of these factors is limited. Physicians have a duty and responsibility to the child to require a full evaluation of the problem and to guarantee that no expected repetition of trauma will be permitted to occur.

- (32) • Klein, Michael, and Stern, Leo. "Low Birth Weight and the Battered Child Syndrome," American Journal of Diseases of Children 122:15-18, July, 1971.

Fifty-one cases of battered child syndrome seen over a period of nine years at the Montreal Children's Hospital were reviewed to explore the possibility that low birth weight predisposes this condition. Of these 51 infants, 12(23.5%) were low birth weight infants, the expected low birth weight rate based on the Quebec perinatal figures is 7% or 8%. Associated with these instances of battering of former low birth weight infants was a high degree of isolation and separation of infant from the parents in the newborn period (mean hospital stay, 41.4 days) and a strong history of deprivation in the maternal history and in the child prior to battering. Suggestions are made for early detection and intervention.

- (33) • Koel, B. S. "Failure to Thrive and Fatal Injury as a Continuum." American Journal of the Disadvantaged Child 118:565-568, 1969.

A brief article succinctly summarizing theories of causation of failure to thrive, and offering three case histories grimly illustrating that failure to thrive infants may be at risk of serious injury or violent death in the ensuing months. Koel sees failure to thrive on a continuum with abuse and fatal injury, a point not made in other research.

- (34) • Light, Richard L., "Abused and Neglected Children in America: A Study of Alternative Policies," Harvard Educational Review November, 1973: 556-598.

Out of 3,000 reported cases of child abuse in New York City in 1973, only 8 were reported by private physicians. Similar proportions have been evidenced in data collected from other cities and many experts argue that this particular bias leads to the far greater likelihood of reports on low-income families than on their middle-class counterparts. In this article, several sources of data are examined to estimate incidence of child abuse and three potential social policies are analyzed in detail: national health screening, education in childrearing, and the development of profiles of families in the hope of offering preventive help.

- (35) • Maginnis, E., Pivchik, E., and Smith, N. "A Social Worker Looks at Failure to Thrive." Child Welfare 46:335-38, 1967.

Failure to thrive is a syndrome of infancy and early childhood characterized by growth failure, malnutrition, and retardation of motor and social development. In 1964 a retrospective chart review was made of 151 children admitted to Children's Hospital Medical Center (Boston) with a diagnosis of failure to thrive. Of these, 50 had no primary organic illness and were consequently the study subjects. Chart reviews, contacts with other involved agencies, and interviews with the families were the sources of information.

The findings were as follows: 1) 42 of the 50 children were under age 2, the average being 12.5 months; 2) 38 were the youngest child in the family, born within 12-17 months of the previous sibling; 3) the parents' views of these children had an aura of detachment; 4) 30 of the mothers reported being depressed after the birth of the failure to thrive child; and 33 were able to verbalize that they had not wanted the child at all; 5) a large majority of the families recalled one or several stressful events coinciding with the birth and early infancy of the child, such as severe marital discord, loss of job, etc.; 6) the average age of the parents was 26 years for the mother and 29 years for the father with the largest concentration in the 20 to 25 year age group; 7) 42 families were intact at the time of hospital admission although several admitted marital disturbances; almost half of the parents were raised in intact families; 8) 42 of the families were self-supporting, with 25 living on incomes of \$3,000-\$5,000; the remaining earned over \$5,000; with 6 families earning over \$10,000 per year; 9) the families were stable; 13 families had not moved at all for five years, and 25 had moved only once in that time; 10) the families were not socially isolated, with 26 families describing active participation in religious or social activities; 11) motivation for social work help was low with only 3 mothers asking directly for help in the follow-up interviews.

The findings indicate that failure to thrive is not found mostly in low socio-economic groups, but that feelings and attitudes of the parents within the family units have a primary bearing on the child's capacity to thrive.

- (36) • Morse, C.W., Sahler, O.J., and Friedman, S.B. "A Three-year Follow-up Study of Abused and Neglected Children." American Journal of Diseases of Children 120: 439-46, 1970.

University of Rochester Medical Center. Study begun in 1968. "Twenty-five children from 23 families were studied approximately three years after hospitalization for injuries or illnesses judged to be sequelae of abuse or gross neglect." "Gross neglect was defined as omission on the part of the

parent(s) or designated caretaker to take minimal precautions for the proper supervision of the child's health and/or welfare." "During this follow-up period, approximately one-third of the children had again been suspected of being victims of physical abuse or neglect. An assessment of intellectual, emotional, social and motor development disclosed that 70% of the children were judged to be outside the normal range, though often mental retardation or motor hyperactivity was thought to have preceded the abuse."

At the time of follow-up, only one characteristic seemed to be common to children developing normally - mothers perceived their own relationships with the child to be a good one. Two of these children were thought to be grossly overprotected by their mothers. In contrast, all mothers of children who were grossly disturbed perceived mother-child relationship as poor, and these judgments were substantiated by the authors.

An evaluation was made regarding the type and effectiveness of intervention by community agencies - PHN, homemaker, caseworker. None of these proved overwhelmingly successful, although the PHN was usually seen as prying and judgmental. Although a need for more rehabilitative effects is expressed, no specific suggestions are made. An interesting finding was "The reporting of families suspected of abusing their children did not interfere with subsequent medical care."

Study lumps abuse and "gross neglect" together. Agrees to some extent with findings of Elmer and Court (i.e., high incidence of MR among these children, certain children and their families may be especially vulnerable to abuse and neglect, i.e., those in which parent or child had prior major physical, intellectual, or emotional problems).

- (37) • Steele, Brandt F. and Pollock, Carl B. "A Psychiatric Study of Parents Who Abuse Infants and Small Children," The Battered Child, Helfer, Ray E. and Kempe, C. Henry, editors. University of Chicago Press, second edition, 1974.

During a period of five and a half years, the authors intensively studied 60 families in which abuse of infants or small children had occurred. These families came under the care of

the authors by "accidental means" and could not be considered a valid sampling for statistical purposes. Although it is admittedly difficult to draw the line between real abuse and accidental injury, the authors, two psychiatrists attached to the University of Colorado Medical Center, feel that they have been conservative in their classification of injuries as abuse. The cases in which they became involved were "only an extreme form of what we would call a pattern or style of child rearing quite prevalent in our culture."

The present report includes cases of infants and children under the age of three who had been significantly abused by their parents or other caretakers. Neither direct murder, resulting from a single attack, nor abuse of older children are included here, as it is believed by the authors that the motivational dynamics of these situations are different.

In addition to the direct psychiatric procedure, use was made of interviews and home visits by a social worker. Contacts were made with both parents, and the duration of these contacts varied. Treatment arrangements were more elastic than is usually the case in either psychiatric practice or social work, and by the usual standards of psychotherapy, were highly "contaminated" relationships with enhanced dependencies and transference reactions.

The general characteristics of the parents in this study are quite different from those reported elsewhere, and it is noted that this is the result of using skewed samples. Instead of trying to associate child abuse with a specific type of psychiatric disorder or character-type description, the authors focused on the interaction between the child and caretaker. These parents seem to demand a great deal from their children, both prematurely and clearly beyond the ability of the infant to comprehend what is wanted and respond. Observations of these interactions led to a clear impression that abusive parents look to their children for reassurance, comfort, and loving response - a phenomenon which has been termed "role reversal" by Morris and Gould.

Case studies are described in detail, with special attention to patterns of behavior in child-rearing. Without exception, these parents recreate the style in which they themselves were raised with their own children. The authors' philosophy in treating abusive parents is that therapeutic intervention in a process which passes from generation to generation may hopefully produce changes in patterns of child-rearing.

- (38) • Stern, Leo. "Prematurity as a Factor in Child Abuse," Hospital Practice 8(5):117-123, May, 1973.

(C)

Author raises the possibility that among the consequences of recent advances in management of low weight and ill newborns is that the early interpersonal relationship between infant and mother is altered in an undesirable way while the infant is hospitalized for diagnosis and treatment. Not only may the infant's early experience make it difficult for him later in relating normally to the mother, but for her there may be difficulty in forming a close attachment to him. Her predominant feeling may be at best indifference or at worst total rejection.

The maternal behavior so disturbed to permit a mother to inflict overt harm on her child may derive at least in part from an early failure in mother-infant interaction during the critical time for forming a normal relationship. The author indicates that the earlier contact is accomplished between mother and infant the better the later relationship will be.

Author's statements are based on a study of cases of child abuse at Montreal Children's Hospital over a 9-year period of 51 abused children. 12 or 23.5 percent had been low weight infants at birth; 9 of the 12 were seriously ill and required extended hospitalization. Three of the 12 died; 2 of these three had been hospitalized for an extended period after birth.

- (39) • Young, Leontine. Wednesday's Children. New York:
(A) McGraw-Hill, 1964.

The purpose of this study of child abuse and neglect was to trace the profiles of neglectful and abusive families in order to learn: 1) what they are like - how they live; 2) if there are degrees of neglect and abuse; and 3) if neglectful parents differ from abusive parents.

In the first study, families were selected from a large Eastern metropolitan area with a diversity of racial and cultural groups. A total of 120 cases were selected from the active case files of two public, suburban child welfare systems and one private urban agency. In the second study, 180 families were selected from seven different localities across the country - urban, suburban, and rural. The schedule of the second study consisted of 84 true or false items. Information was taken entirely from case records originally opened because someone had reported the parents as neglectful or abusive.

Young found that, among the severely neglectful, 100% failed to keep their children clean, 95% failed to secure medical attention for their children, 98% dressed their children inadequately, 65% left them alone for periods of days, and only 19% had defined family responsibilities and carried them out with any consistency. The moderately neglecting parents had similar behavior patterns, but to a less pervasive degree; they were also more able to express positive feelings and to indicate concern for their children. Nearly all of the neglecting families fit into the multi-problem family category and, psychologically, were themselves very child-like. There was a high correlation of poverty and neglect, and the life histories of nearly all of the neglecting parents were similar to the lives they were offering their children.

Neither group requested outside help for themselves or their families, but, unlike abusive parents, neglectful parents were usually amenable to help if it did not make demands on them. Also, neglectful parents were seldom abusive to their children except for an occasional impulsive outburst. The behavior of these children was more frequently withdrawn than aggressive. Apathy and depression seemed pervasive. Considering the child-like qualities

of neglectful parents, removal of the children is often the treatment of choice. When working with the parents, however, one must bear in mind that the most successful helper is one who acts as a kind, non-punitive, but firm parent to the parents of the neglected.

For the abusing parent there is perverse fascination with punishment as an entity in itself, divorced from discipline and rage. For these parents, "rather it is deliberate, not impulsive; consistent, not transient; tortuous in expression, not direct and instantaneous."

Family situations varied. Sometimes one child would be selected as a scapegoat; on other occasions all children in a family would be abused. In some families, only one parent was abusive, and in others both parents. In all abusive families there was an aggressor-victim motif, and this was usually between the parents as well as the children. In no case did the passive parent initiate attempts to protect the children. Sometimes the passive parent was also a victim of abuse.

Young considers organic pathology a possible cause of abusiveness. Such parents are concerned primarily with destruction and power. The extent of pathology in these families is more extreme than in neglecting families. Again, less abusive parents have the same patterns as the more severely abusing, but at a lesser intensity. Treatment of the severely abusing group always involves removal of the children from the home. Therapy should be grounded in the worker's belief that the children must be protected; an experienced worker who is not afraid of his/her own power is necessary. Abusive parents respond to power, but cannot form therapeutic relationships.

II. COMMUNITY INTERVENTION

- (40)• Bard, Morton, and Zacker, Joseph. "The Prevention of Family Violence: Dilemmas of Community Intervention," Journal of Marriage and the Family 33(4):677-682, 1971.
(B)

Some of the problems involved in community intervention for the prevention of family violence are examined. Current emphasis upon innovative helping strategies often fail to consider serious moral, ethical, and legal questions that serve to bar the adoption and extension of helping services. The more innovative and successful a community intervention may be, the more it may conflict with society's values and ideals. Experiences in a successful program in police family crisis intervention were used to highlight several dilemmas. Policemen participated in training experiences intended to provide them with interpersonal skills necessary to constructively affect deteriorating family situations. Instances arose wherein profound dilemmas made these officers helpless to prevent what they recognized as impending violence.

- (41)• Bean, Shirley L. "The Parent's Center Project: A Multi-service Approach to the Prevention of Child Abuse." Child Welfare 59(5):277-282, 1971.
(B)

Described is a group-therapy demonstration research project designed to aid parents in families showing patterns of child abuse. Problems of developing the program and operating and financing the center, conceived as a setting for both parents and children, are discussed. The major treatment method is group therapy, led by male and female therapists, with parent participation encouraged in supervised child day care. The research objectives of the project are (1) the development of new techniques, (2) training personnel, and (3) study of the origins and effects of violence as a force within the family.

- (42)• Besharov, Douglas J. Juvenile Justice Advocacy - Practice in a Unique Court. Practising Law Institute, New York City.

The author discusses the concept of Child Protective Services, and touches upon the following areas:

- 1) Reporting laws - how they are responsible for designating the agency receiving reports of child abuse;
- 2) Why child protective services are relied upon in abuse cases;
- 3) Removal from the home and its benefits/consequences;
- 4) Legal action - pros and cons;
- 5) Standard child protective agency procedures, services and purposes;
- 6) The social worker -role/decision-making authority/qualifications.

The author discusses the following issues and questions:

1. Removal from the home frequently is not an adequate solution to an abuse situation.
 - a) What might happen to other children in the home?
 - b) How would this help the situation which is causing the problem, and break the abusive pattern?
2. Legal action can prove to be a negative recourse.
 - a) If the parent is acquitted, he may consider this approval of his conduct.
 - b) If the parent is found guilty, he may become even more angry; his behavior won't be altered by prison.
3. What should constitute an adequate investigation?
 - a) Home visit;
 - b) Mental and physical examinations of all the children in the home;
 - c) Psychiatric evaluation of the parents;
 - d) An interview with the child;
 - e) Determination of the identity of the perpetrator;
 - f) Determination of the nature, cause and extent of the maltreatment?

4. The role of the child protective service worker is the key to what will happen in an abuse case. His/her decision will determine:

- services given
- removal of the child from the home
- justice system involvement

5. The dual role of the child protective service caseworker - investigator versus helper - creates a stressful situation.

(43)• Billingsly, Andrew. The Role of the Social Worker in a Child Protective Agency: A Cooperative Analysis, Massachusetts Society for the Prevention of Cruelty to Children.

This study contrasts the role performance of a case-worker in a family counseling agency, who works mainly with the client, with that of a protective agency worker, who must spend a large amount of time in community activity. Role differences revolve around the fact that the caseworker in a family counselling agency is dealing with clients who come to the agency for help; while the caseworker in a child protective agency must intervene in family situations where parents have not asked for help.

"The central theme of this study is that social work practice in different types of agency settings is characterized by significant differences as well as similarities, and that the differences exert an influence on the orientations, satisfactions, and other responses of their members; and further, that these differences should be taken into account in the professional preparation, on-the-job training, and staff assignments of social caseworkers."

The job of a social worker in a child protective agency requires an innovative approach. In the process of such innovation, "social workers. . . have an opportunity to make important contributions to the emerging synthesis of a more truly psychosocial approach to helping people and to the further development of social casework as a profession."

(44)• Bryant, Harold D., et al.; "Physical Abuse of Children - An Agency Study." Child Welfare, March 1963, pp. 125-130.

This study, performed by the Massachusetts Society for Prevention of Cruelty to Children, provides findings that indicate an increase in physical abuse of children by parents in Massachusetts and inadequate community resources for dealing with it. Some characteristics of abusing parents are identified.

The study discusses:

- 1) who refers to the agency;
- 2) characteristics of families referred:
 - a) little geographic mobility,
 - b) little integration into the community,
 - c) serious social problems,
 - d) young marriages/pre-marital conception,
 - e) young age of parents at time of the abuse,
 - f) not restricted to one economic level of society;
- 3) characteristics of personalities of the parents referred:
 - a) hostility and aggressiveness,
 - b) rigidity, compulsiveness, and lack of warmth,
 - c) passivity and dependence,
 - d) physical disability of father creating a hostile emotional environment;
- 4) characteristics of abused children referred:
 - a) 50% under 7 years,
 - b) 75% under 13 years,
 - c) majority mentally and physically normal,
 - d) seriously impaired relations with parents,
 - e) emotionally disturbed as a result of abuse (most often this does not show up outside of the home);
- 5) results of protective services;
- 6) dual agency responsibility:
 - a) to provide ongoing service and help to families where abuse occurs, in an attempt to keep the family together when possible;

- b) to develop a planned process of case finding consisting of interpreting to hospitals and other agencies the extent and nature of the problem of physical abuse to encourage reporting.

(45)• Burland, J. Alexis et al., "Child Abuse: One Tree in the Forest," Child Welfare, Vol. LII, No. 9, November 1973, pp. 585-592.

"A review of the records of 28 children who experienced parental abuse or severe neglect indicates the complexity of the parent-child relationship, and the necessity of meeting the child's and the parents' dependency needs, rather than focusing exclusively on the abuse itself as the major concern."

Areas dealt with include:

(1) psychiatric considerations, leading to the hypothesis that the abuse itself was only one issue closely connected to many others in the family situation;

(2) choice of placement facility;

(3) casework considerations;

(4) family reunion vs. long-term foster care.

The author makes the following recommendations:

1. The goal of removal and placement should be to offer supportive counseling for the parents, and while protecting the child, working to re-unite the family, if possible.
2. Treatment for child abuse must not isolate the abuse itself as the problem to be treated - rather, it must be seen as a product of the family dynamics -- and it is this that must be treated.
3. There is a need for a therapeutic alliance between the caseworker and the parents. Parents who abuse are often child-like themselves, with unmet dependency needs. Thus, the caseworker must assume a parenting, even authoritative and protective stance. Parents must see the caseworker as their friend.

(46)• Burt, Marvin R. and Balyeat, Ralph. "A New System for Improving the Care of Neglected and Abused Children," Child Welfare, Vol. LIII, No. 3, March, 1974, pp. 167-179.

The article discusses a demonstration program of a system coordinating the wide variety of services for neglected and abused children in metropolitan Nashville and Davidson County which has produced many gains in the handling of such cases. One objective notably achieved is the avoidance of institutionalization of many of the children.

Issues discussed in article include:

- 1) effects of separation of children from their families;
- 2) the program objectives:

- a) to reduce the number of children being removed precipitously from their homes;
- b) to reduce the number of children who have to go through the legal system unnecessarily;
- c) to plan orderly placements for children who must be placed;
- d) to set short-term time goal for emergency care (two weeks to a month);
- e) to find more appropriate types of placements based on child's needs via 24-hour emergency intake, emergency caretaker services, 24-hour emergency homemaker services, emergency foster homes for temporary placement, and coordinated development, research and planning by the Department of Public Welfare. The DPW acts as a liaison between all federal, state, county, city and voluntary agencies involved in child welfare services. Use of juvenile court is avoided unless removal from the home is mandatory.

(47)• Cameron, J. M., Johnson, H. L. M., and Camps, F. E., "The Battered Child Syndrome," 6 Medicine, Science and the Law, January 1966, 2-21.

Physicians and other medical personnel must be ethically as well as legally free to report and take positive and responsible action in suspected child abuse cases. If it were to become general knowledge that a doctor had turned in a patient, his practice

would most often suffer. The purpose of this paper was substantiation of the frequency of occurrence and recognition of child abuse cases at the London Medical College Hospital. The authors suggest that full radiological examinations be given to all children with "accidental" injuries due to the often marked discrepancy between clinical findings and the parents' account of the injury.

Most diagnostic indices do not allow for a "battered child" classification, so records are filed under a miscellany of headings, making retrospective study impossible. In the absence of an acute awareness of child abuse and abuse reporting, physicians, whose main interest is treating the injury, will not automatically consider abuse.

- (48) • Cohen, Stephan J. "A National Survey of Attitudes of Selected Professionals Involved in the Reporting of Child Abuse and Neglect", Institute of Judicial Administration, Inc., American Bar Association, Juvenile Justice Standards Project. New York, N.Y. (Unpublished Manuscript)

This study, funded by a grant from the Office of Child Development, DHEW, surveys attitudes of professionals involved in the handling and reporting of child abuse and neglect. The study focused on abuse because neglect is statutorily reportable in only 22 states, while abuse is statutorily reportable in all 50 states. Attitudes toward reporting laws were examined, and how these attitudes influence reporting rates.

The study findings are summarized as follows:

1. Most respondents to the survey viewed existing reporting laws as satisfactory. The main systemic defect--underreporting--seemed closely related to the respondents' dissatisfaction with the implementation of those laws and the provision of services.
2. There is a need for more and better treatment services, including more financial support for new and existing programs.
3. There is a need for better education of the public and professionals as to state reporting laws and the obligations those laws impose.
4. There is a need for better interagency cooperation and coordination in dealing with the complicated problem of abuse.

- (49) • Cohen, Stephan J. A Study of Child Abuse Reporting Practices and Services in Four States, Juvenile Justice Standards Project. New York, N.Y.

This study of the child abuse reporting systems in New York, California, Colorado and West Virginia was supported by a grant from the Office of Child Development, DHEW. The researchers studied how child abuse incidents get reported, what happens to the reports, and how people involved in the reporting system view its operation. One objective of the study was to discover how child abuse reporting laws and related criminal, juvenile and welfare statutes functioned together as a system for the handling and processing of suspected child abuse cases. Another objective was to determine how the workings of systems affected the incidence of reporting and the problem of child abuse.

Major findings of the study follow:

1. Underreporting, especially by private physicians, is due to unfamiliarity with the law, fear of involvement in lengthy legal processes, effects on doctor-patient relationship, and fear that reporting would not be constructive because of the law of available treatment services.
2. Lack of knowledge of state reporting laws and procedures on the part of mandated reporters and the general public is pervasive.
3. Reporters rarely receive feedback from the agencies to which they reported. This has a negative effect on reporting frequencies, especially for hospitals.
4. Poor training and educational programs for professionals and lay people in identifying and reporting child abuse prevail; there is little knowledge of the availability of support services.
5. Poor functioning of the Central Registry centers around confusion as to the kinds of information maintained, access, and who is required to report. Use of the registry as a diagnostic tool, as a method of case management, as a tracking device for transient families, and as a means for generating statistics, was found to be deficient.

6. Lack of available services as alternatives to court processing is the rule. Reporting is negatively effected by the issue of what poses a greater risk for the abused child - not reporting, or involvement in court process and the ensuing "basic remedy" of the system: long-term removal with no treatment provision for the family.

7. Lack of interagency cooperation and coordination negatively impacted reporting frequencies.

8. Legal requirements for reporting to law enforcement agencies reduced reporting - it reinforces the perception of the reporting system as punitive. Where reporters have a choice of recipients, they tend to prefer non-police agencies.

9. Having a 24-hour hot-line tends to increase reporting although most people choose to contact local agencies, usually welfare.

10. There is a high degree of discretion in the child abuse reporting and handling system. Varying conceptions of what constitutes physical and emotional abuse influence reporting.

11. Rural areas handled child abuse reports more flexibly and informally and with better inter-agency cooperation, leading to more efficient and timely resolution of cases, while not necessarily increasing formal reporting. Prompt reporting was facilitated by better knowledge of the people they were reporting to.

12. "The most crucial finding in the four-state study was the lack of congruence between the system for reporting suspected child abuse and the system for delivery of services. Neither one functioned in the manner prescribed by the respective laws of the four states. The phenomenon of underreporting was both a result of the inadequacy of these systems and a measure of that inadequacy." The nature of the system is more punitive than curative.

- (50) • Davoren, Elizabeth. "The Battered Child in California: A Survey," San Francisco Consortium. March, 1973.

The Battered Child in California survey was conducted during December 1972. Questionnaires were sent to the Welfare and Probation Departments of all 58 counties and to at least one hospital in each county; all hospitals reporting 1,000 or more births per year were also sent questionnaires. Telephone

conversations expanded information received in questionnaires and letters. Ms. Davoren restricted her survey to physical child abuse as an obvious first step in attacking the theme of dominance and submission which is the current pattern of our daily human encounter.

In 1972, there was only one direct federal child abuse project in California, and all other funds spent specifically on child abuse projects amounted to less than \$100,000. California statutes require that the police be notified within 36 hours of a report of suspected child abuse, and in practice they do most of the initial investigating. Police are most frequently the agency to which reports are made. Many county professionals expressed a reluctance to report to the police, whose training did not prepare them to handle highly complex crisis situations. Much of the data seemed to reflect no particular focus on abuse; statistics of neglect and abuse were often lumped together, and few questionnaires provided clear-cut statistical data.

In addition to a pervasive need for child abuse program funding, needs perceived by the county professionals included: 1) information and education pertinent to the problem of child abuse; 2) increased medical support in diagnosis, reporting, and testifying in court; 3) more adequate representation and protection of the child; 4) less punitive methods of handling abuse cases, which would include the establishment of treatment resources; and 5) coordination of existing resources for prevention, including developing additional programs and abuse registries on a local and regional scale.

In each county where efforts are being made to deal with the problem there has been an individual or nuclear group which has taken the initiative for program development. Fifteen counties are cited here and their child abuse systems briefly summarized. A variety of treatment approaches found in the counties are also described.

- (51) • Ebeling, Nancy B. and Hill, Deborah, eds. Child Abuse: Intervention and Treatment. Acton, Mass. Publishing Sciences Group, Inc., 1975

This book is an interdisciplinary effort, sponsored by Children's Advocates, Inc., to respond to the need for education in the areas of child abuse and neglect. The central philosophy, shared by all of the contributing professionals, is that child abuse is symptomatic

of severe family dysfunction, and that successful treatment or intervention must necessarily involve helping the total family unit toward alleviation of the stresses which resulted in abuse.

Children's Advocates, a committee of 23 Boston area hospitals and agencies committed to a multidisciplinary community concept of child abuse intervention and treatment, serves as a forum for professionals within the protective service field. Their major functions are the education of the public to the complexities of abuse and neglect, and the coordination of service development for the treatment of abused and neglected children and their families. Some articles which appear here were written specifically for publication in this book, but the initial thrust for the volume came from two New England Child Abuse symposia, where much of the material was originally presented. Authors address themselves to the problems of inter-agency communication, case management, and treatment, and illustrate various therapeutic methods which have proven helpful in dealing with abusive or neglectful families.

- (52) • Elmer, Elizabeth, "Hazards in Determining Child Abuse," Child Welfare 45:1:28-33, January, 1966.

The term "battered child" was coined to increase public awareness of the phenomenon, but the connotations of willful assault and sadism leave no room for etiological investigation and are not conducive to helping the parents, who, in all likelihood, are sadly in need of alternative resources and environmental support. In order for the problem to be viewed objectively, it is necessary to reduce the hysteria surrounding the phenomenon of child abuse.

- (53) • Elmer, Elizabeth. "Abused Children and Community Resources." International Journal of Offender Therapy 11(1):16-23, 1967.

The following methods of handling child abuse are considered and evaluated: (1) The child remains in the home; voluntary casework with the parents, (2) The child remains in the home; protective casework with the parents, (3) Petition to remove the child denied; parents placed on probation, (4) Petition to remove the child granted; child removed to substitute home,

(5) Abusive parent imprisoned; child removed to a substitute home, (6) Coordinated community efforts instituted for the family and the child. Of these, the most effective measures are the last two. Recently new mandatory laws to report child abuse were passed in most of the United States, but they will be of little value unless backed by sufficient personnel, able to keep in mind the needs of every member of the family.

- (54) • Fanshel, D. and Shinn, E.B. Dollars and Sense in the Foster Care of Children: A Look at Cost Factors.
(A) New York: Child Welfare League of America.

Reports findings that emerged in the course of a longitudinal study of 624 children entering foster care in New York City during 1966. Sample, followed for five years, creating the possibility of studying cost factors normally not readily accessible. In New York City, there is reliance on purchase of services by the public sector from private child care agencies out of the New York Charitable Institutions Budget. Data available in the Bureau of the Budget provided possibility, via computer program, to sum total costs over a four-year period. Results include neither the small costs (less than 5%) contributed without reimbursement by private agencies or services in the public sector incidental to placement; estimates are low.

Of the 624 children, 407 had been discharged from foster care (i.e., foster home or institution) by the end of four years; caring for these children cost \$3,567,672. The 217 still under care had already required an expenditure of \$3,636,321. Relevant average costs per child were \$8,766 and \$16,757. Projections from available figures showed, for example, that for the 161 families where the children were still in care, cost of keeping them to maturity would total \$23,652,027! From experience, this is not unlikely to occur. Potential savings through returning children to their own homes or arranging adoption are identified. Besides waste of children's lives, financial losses attendant on failure to arrive at prompt case decisions, or endlessly awaiting parental improvement that does not occur are extremely large. Illustrations of large, poor families involving psychotic or otherwise neglectful parents are given with estimates of eventual costs of caring for the children in each family ranging from \$500,000 to \$750,000. Computer management is recommended as one method to ensure tracking of cases in very large agencies.

- (55)• Fleck, Stephen. "Child Abuse," Connecticut Medicine 36:337, June, 1972
(C)

An editorial comment on the problem of unwanted children, suggesting adequate dissemination of birth control information before puberty and a vast educational effort to teach parenthood and family responsibilities. The provision of adequate and equal preparation of girls for life-work and careers in order to achieve the prevention of unwanted children is also discussed.

- (56)• Geiser, Robert L. The Illusion of Caring--Children in Foster Care. Boston: Beacon Press, 1973.

Geiser discusses the approximately 364,000 American children who are in foster care because their families have failed "to function as expected in our society". These children are rescued from parental neglect only to suffer what Geiser calls "public neglect, an illusion of caring".

Reasons for foster placement are categorized as follows:

- 30% - physical illness of the adult;
- 15% - mental illness of the mother;
- 15% - unmanageable children;
- 10% - abuse by caretaker;
- 30% - other family problems.

Findings concerning foster care include the following:

1. Parents of neglected and dependent children who are in foster care were often children in foster care themselves.
2. Children who remain in foster care for longer than 1.5 years become a high risk group. The chances are very great that they will remain in foster care indefinitely.
3. The longer a child stays in foster care, the more likely he is to show signs of severe emotional disturbance.
4. Regarding abuse, "...the Joint Commission on Mental Health reports that the nationwide total of child abuse cases is two to three thousand a month, with one or two children killed each day in the United States by parents." Geiser discusses the dynamics of the abusing family, and describes the characteristics of children who tend to be abused.

5. The main causes for over-reliance on foster care placement rather than family preservation include the dearth of homemaker services, day care centers, family counseling, and public education or training for child-rearing and family life.

6. One of the most destructive outcomes of foster placement is the child's future mental health and the intense anger that separation arouses.

7. A major difficulty of the child placed in foster placement is his relationships with other people, especially caretakers (foster parents, teachers, social workers). He will relate to them as he related to his parents, trying to manipulate and provoke the emotions and behavior of these adults to match those of his parents. This makes it important for foster parents to have access to casework or consultative support, or the placement will collapse. The excessive caseloads existing makes provision of each support virtually impossible.

8. The child in foster care has a chronic problem of poor self-concept (i.e., lack of a sense of worth, self-competence, and identity).

9. A five-year longitudinal study by Fanshel (1966) revealed that only some 5% of all children placed in foster care are adopted because of complications resulting from the laws regarding adoption, parental consent, lack of appropriate adoptive homes, and difficult-to-please children. At the end of 3.5 years, 46% of the study children were still in foster care.

10. Based on the Joint Commission Report, "for two-thirds to three-quarters of the children in foster care, there is no specific plan as to whether and under what circumstances they can return home--the social work plan is that 'any day' the children will be returned home, but any day becomes two, five or ten years, while the children wait for their parents to become rehabilitated." Once the child is placed, most parents are content to let the status quo remain. In many instances, there is no family to return the child to. This is true particularly of voluntary placements.

11. Helen Jeter, in her 1963 survey of public agencies in the U.S., reported that 28% of children in foster care had been moved 3 or more times. Some reasons for such moves included poor selection

of foster families; failure of the state welfare department to provide support for the foster parents; and collapse of the foster home due to too many foster placements or a lack of enough foster homes.

Geiser recommends parenting education; a Bill of Rights for Children; federal government funding for the child care professions; and media coverage to foster community interest in foster care.

- (57)• Goldstein, Joseph; Freud, Anna; and Solnit, Albert J. Beyond the Best Interests of the Child. New York, N.Y.: The Free Press (Macmillan), 1973.

How the question of a child's custody arises (e.g., by divorce, dependency, neglect, abuse or delinquency proceedings) does not affect the child placement decision which should be made independently of the nature of the proceedings. This book proposes novel guidelines which integrate the insights of psycho-analysis with the law. The authors argue that a child's psychological well-being should be equally protected with his physical well-being. The recommendations in the book are based on two stated value premises. First, the law must make the child's needs paramount. Second, privacy should be preferred and state intervention in the parent-child relationship should be minimal. "Child Placement" is defined as any and all legislative, judicial, and executive decisions generally or specifically concerned with establishing, administering, or rearranging parent-child relationships. The focus of the book is on contested child placements: where the adults involved are unable to reach agreement without resort to the legal process for resolution of their disputes.

The objective of child placement should be to assure for each child a chance to be a member of a family wherein he will feel wanted and where he can have the opportunity, on a continuing basis, not only to receive and return affection, but also to express anger and to learn to manage his aggression. The family unit is generally perceived as the fundamental unit responsible for and capable of providing a child on a continuing basis with an environment which serves his numerous physical and mental needs during immaturity. Where the family unit functions well, the adults are the "psychological parents" and the children are "wanted." Whether an adult becomes the psychological parent of a child is based on day-to-day interaction, companionship, and shared experiences. The role can be fulfilled either by a biological parent or by an adoptive parent or by any other caring adult - but never by an absent, inactive adult whatever his biological or legal relationship to the child may be.

If adoption occurs in the early weeks of infancy the chance for the adoptive parents to become the psychological parents is equal to the biological parents' chances. This is diminished as adoption occurs at later stages. It is also diminished by the usual statutorily required trial period before finalization. The foster parent-child relationship offers little likelihood of promoting the psychological parent-wanted child relationship. Generally, foster parents must agree that a placement is temporary, the child is not available for their adoption, and the placing agency has the right to remove the child at any time. In short, emotional involvement is discouraged. Where the child is merely being held for others, special techniques have to be used, either to keep existing attachments alive in the child's mind or to prepare the way for future ones.

The authors advocate recognition of a new concept: the common law adoptive parent. Such relationships may develop where a parent, without resort to legal process, leaves a child with a friend or relative for an extended period of time. Over such time all the elements of a parent-child relationship may develop. It becomes an identical situation to a successful adoption. Failure to give legal recognition to this relationship and the removal of the child causes the same reactions in the child as separation from natural or legal adoptive parents.

The authors offer three component guidelines for decision-makers concerned with determining the process of placement of children.

- I. Placement decisions should safeguard the child's need for continuity of relationships.

Disruption of continuity will have different consequences for different ages. In general, the younger the child, the shorter the disruption need be to cause distress. Adoption decrees should be made final the moment a child is placed with the adoptive family. Moreover, the time for appealing an adoption decree should be drastically shortened. In foster-care and other temporary placement, procedures for maintaining relationships between child and absent parent should be developed. Shifting a child from one temporary placement to another should not occur. But once a prior tie is broken, the temporary subsidized adoption should be provided as an alternative to long-term foster care or institutionalization. This would strengthen the recognition of common law adoption.

- II. Placement decisions should reflect the child's, not the adult's sense of time.

Time has different meanings for children of different ages. During an absence, a child latches onto the new adult who cares for his physical needs as the potential psychological parent. The implications of this guideline are that decision-makers should act with all deliberate speed to restore stability of prior relationships or replace the prior one. Every placement dispute should be considered an emergency. Hearings should be held promptly and decisions rendered quickly. The period of appeal should be no more than a week or two. The presumption would be that the younger the child, the shorter the period of relinquishment before a tie is broken.

- III. Child placement decisions must take into account the law's incapacity to supervise inter-personal relationships and the limits of knowledge to make long-term predictions..

Placement decisions should be based on the few short-term predictions that can be made. They should be limited to identifying who, among presently available adults, is or has the capacity to become a psychological parent. The adult most suited is the one, if any, with whom the child already has an affectionate bond. Instead of the present "in-the-best-interests-of-the-child" standard, the authors propose that:

Placements should provide the least detrimental available alternative for safeguarding the child's growth and development.

The "least detrimental alternative" is that specific placement and procedure for placement which maximizes the child's opportunity for being wanted and for maintaining on a continuous basis a relationship with at least one adult who is or will become the psychological parent.

As one final guideline the authors recommend:

The child in any contested placement should have full party status and the right to be represented by counsel.

The authors offer a "model child placement statute" that incorporates the definitions, concepts and guidelines discussed previously.

- (58) • Gil, David G. "What Schools Can Do About Child Abuse," American Education, April, 1969.
(C)

Schools are a valuable screening and reporting facility for detecting child abuse, but have been neglected until very recently. Recommendations are made for education of teachers in recognition and reporting of abuse. Selected statistics from "Violence Against Children" are presented.

- (59) • Gruber, Alan R. Foster Home Care in Massachusetts --A Study of Foster Children, Their Biological and Foster Parents. Commonwealth of Massachusetts, Governor's Commission on Adoption and Foster Care, 1973.

The Governor's Commission was charged with the tasks of identifying problems in Massachusetts relating to adoption and foster care; evaluating existing procedures; and making recommendations for changes in statutes and procedures.

The objectives of the study were as follows:

1. To establish a profile of the characteristics and legal statutes of children in foster home care in Massachusetts.
2. To discover the nature of the relationship of these children with their natural parents and with the personnel of the agency supervising their placement.
3. To determine the experiences of children in foster care with regard to the number of homes in which they had been placed and the reasons for multiple placements.
4. To identify alternatives to foster home care and to determine the extent which they have been utilized, with emphasis upon programs to keep children in their own homes.

5. To delineate the difficulties foster parents face in caring for these children and to discover means to improve the quality of foster home programs.

6. To develop specific recommendations to bring about increased effectiveness in foster home programs.

Findings

- Children being placed in foster care are much older than in previous years.
- Foster care is being used as an alternative to institutionalization--therefore placement of severely disturbed and delinquent children is more frequent.
- Very little effort is made to keep the family together, due to a lack of community-based services to deal with family problems while maintaining the family unit (e.g., day care, counseling, homemakers).
- Foster home care is a poor people's program: some 40% of the biological families receive welfare. State and federal governments do not provide adequate support for human services. Problems of poor housing, poverty, lack of medical care, inadequate education, unemployment, and discrimination are the primary causes of parent-child separation in most cases. So long as basic human needs are unattended to, no amount of family services will be successful in keeping families together.
- Temporary foster care most often turns into long-term foster care. Some 83% of the children are never returned to their parents. The average duration of a placement is 5 years; the average age of children in placement is 10.5 years.
- Children in the care of the state receive inadequate diagnostic and treatment services. It is estimated that 40% have one or more disabilities. Children in the care of the state also receive inadequate supervision and case management.
- The state permits most parents to maintain parental rights without demonstration of significant interest in their children. At the same time it fails to effectively provide the opportunity for a permanent family through adoption; and it fails to give adequate support and training to foster parents.

- Specialized foster homes should be provided for children with special needs. The state should hire persons to recruit more foster parents.
- No child should be taken into care without a court order or written agreement (with a six month review) from parents specifying financial support, visitation rights, and medical and educational services.
- Clear guidelines should be established for: 1) reuniting the family; 2) termination of parental rights in preparation for adoption; and 3) rights of foster children.

Recommendations

- Laws governing adoption should be changed to free children for adoption and expedite the adoption process.
- More funding should be provided to the Welfare Department to enlarge its services to families. There should be systematized provision of services to families by public and private agencies.
- A computerized system should provide current information and frequent review of the status of each child in foster care.

- (60)• Halliwell, R. "Time limited work with a family at the point of being prosecuted for child neglect."
(A) Case Conference 15:343-48, 1969.

A case summary of a British Family Service Unit worker's intervention with a family facing prosecution for child neglect. In a twice weekly interview schedule over a period of a year, the worker facilitates the family's moving from disintegration to becoming a responsible, functioning family unit. The worker operated on the premise that the family, who had received concrete services in the past, needs stimulation rather than to be made increasingly dependent. Rather than offering financial and material help indiscriminately, Halliwell first established a therapeutic relationship with the family which he then used to motivate them. A good illustration of effective casework with a British "multi-problem" family.

- (61)• Haselkorn, F. 1966. Mothers-at-Risk: The Role of Social Work in Prevention of Morbidity in Infants of Socially Disadvantaged Mothers. Garden City, N.Y.: Adelphi U. School of Social Work.

Abstract of a book review in December 1967 Child Welfare (pp. 593-549) by Helen M. Wallace. The book presents the proceedings of an institute held at Adelphi University School of Social Work to learn more about biological, sociological, and psychological factors associated with prematurity and infant morbidity among high-risk mothers, and to stimulate new approaches toward prevention of these occurrences.

The report deals with defining high-risk mothers, the inseparability of health factors in these mothers from their social situation--poverty, housing, education etc.--and new programs aimed at comprehensive care to high-risk mothers and their infants. The report concludes that better community planning is needed to encompass the health, social, economic, housing, and educational needs of this highly disadvantaged portion of our population.

- (62)• Helfer, Ray E. "The Responsibility and Role of the Physicians," The Battered Child, Helfer, Ray E., and Kempe, C. Henry, editors, University of Chicago Press, 1968, second edition, 1974.

"There is probably no aspect of child care that can yield more rewarding results than the proper understanding and approach to care of the abused and neglected child."

The family physician or pediatrician has a clear responsibility to involve himself with the total family and to provide leadership in the area of child abuse. Many physicians have been unwilling to accept responsibility for diagnosis, reporting, and follow-up involvement to ensure the protection of the child and the rehabilitation of the parents. Although pediatrics continues to lag behind certain social and legal agencies in providing leadership, understanding, and even research in the field of child abuse, the problems are too large for those attitudes to continue to prevail.

When an injury has occurred, the physician's first responsibility is to the child. Early diagnosis and treatment are essential, and include provisions for

the protection of the child, who is both patient and victim. Almost always the first step is the admission of the child to a hospital, whether medical findings warrant it or not. This provides time for more relaxed conversation with parents and a more thorough evaluation of the child.

Helper discusses the steps to be taken in making a proper medical diagnosis of the child's condition. The next step which the physician must take involves turning his attention to the parents. Although some work in the support and therapy of the parents may be handled by a competent social worker, physicians also have continuing responsibilities in child abuse treatment.

- (63) • Helfer, Ray E., and Kempe, C. Henry, editors. The Battered Child. University of Chicago Press, 1968, second edition, 1974.

The aim of the editors was to present a compilation of views from experts in their respective fields which would illustrate some of the more recent developments in the area of child abuse. Five diverse points of view presented here should aid in supplying information to the individual professional and enable him or her to formulate a broader perspective on the problem.

Aspects of the problem discussed include the history and incidence of abuse; the responsibility of physicians, and the roles of other medical, psychiatric, and social professionals; the functions of law in handling abused children, and the duties of law enforcement. Included is a note on the California pilot study, a 1973 summary update of child abuse legislation, and a summary of neglect and traumatic case pathology.

- (64) • Hopkins, J. "The Nurse and the Abused Child," Nursing Clinics of North America 5(4):589-598 December, 1970.

The nursing profession must assume its role in case findings, prevention, and treatment of the abused child. No other profession has the opportunity to spend as much meaningful time with these patients and their families as does the nurse.

- (65) • Jenkins, A. and Norman, E. Filial Deprivation and Foster Care. New York: Columbia University Press, 1972.

In 1966, Jenkins and Norman studied the natural parents of foster children in New York City, and came up with conclusions based on a survey analysis of 427 families. It is the first part of a cohort study over five years. Through the use of various interviewing techniques and sophisticated statistical analysis, they arrived at empirical and policy judgments on foster care. Empirically they find the natural parents to be poor, of minority status, a large number on public assistance, and almost half without fathers. Various reasons are found for the catalytic problem that sent the child into foster care. The concept of filial deprivation is found to be valid among many natural parents. From the previous empirical findings and other more specific ones, the authors come up with the following policy judgments. Because the families gave up their children, usually due to problems impinging from the environment, the authors conclude that primary prevention is needed in the form of better housing or improved public assistance. Better secondary prevention could deal with the initiating factor for foster care such as a mentally ill parent. The most important policy judgment is that foster care agencies should deal with the emotional deprivation experienced by the parent after separation from the child. A sophisticated study showing the way for more family-centered study on foster care, rather than concentrating on child-centered research.

- (66) • Kempe, C. Henry. "The Battered Child and the Hospital," Hospital Practice 4:44-57 October, 1969.

Presents various techniques used in hospitals to prepare both the parents and the abused child for a return to the home. The author discusses the use of senior citizens in a mothering role in the therapy of abused children. Recommends development of regional metropolitan centers for the study and care of abused and neglected children.

- (67) • Oviatt, Boyd. "After Child Abuse Reporting Legislation - What?" Kempe, C. Henry and Helfer, Ray E., editors. Helping the Battered Child and His Family. J. B. Lippincott Co., Philadelphia, 1972, pp. 146-160.

It is the authors' thesis "that public policy must provide for a system of state funding and supervision of protective services, and that the helping professions - social work in particular - must critically examine present methods of providing services for neglected children and their families."

Three general areas discussed include:

- a) the failure of states to identify child neglect/abuse as a major social problem;
- b) what constitutes an adequate child protective service program (and its staff);
- c) achievement of a clear mandate and adequate funds for child protective services.

Seven propositions are established:

1. Every state must commit itself to a public policy which will insure the availability of protective services - a recognition of the necessity for all people to have opportunities to achieve their full potential.
2. The designation of the state public welfare agency with the authority to develop and administer a protective service program, would provide accountability for the provision of at least a minimum level of service and would facilitate the formulation of definitive policies.
3. The policy directing protective services should clearly define the relationship between the law enforcement agency and the protective services agency.
4. If the voluntary agency is to perform its vital role in developing and demonstrating effective protective services, increased private and public financial support is required.
5. The professionals engaged in providing protective services must assume a strong leadership role in mobilizing the public backing necessary for achieving adequate financial support.

6. Personnel engaged in protective services must test, modify and adapt current practices in terms of their impact on clients' lives.
7. Controlled research is necessary in order to facilitate the development of effective protective service methods.

- (68) • Kempe, C. Henry and Helfer, Ray E., editors. Helping the Battered Child and His Family, "The Consortium - A Community-Hospital Treatment Plan." J.P. Lippincott Co., Philadelphia, 1972, pp. 177-185.

"By their very nature, the problems of child abuse encompass the responsibilities of many disciplines within a given community. Herein lies the basic difficulty confronting every community which tries to provide services for these children and their families."

These propositions are discussed:

- a) Major obstacles for child protective service programs include: lack of communication between various disciplines comprising the social system; subsequent duplication of services and mutual distrust.
- b) Child abuse treatment programs (to end the duplication and create bonds between disciplines--one criterion for a successful program) for large metropolitan areas and small communities based on the concept that the initial phase must be considered as a diagnostic medical/social problem, with the two disciplines closely cooperating; a coalition between the child protective services and the hospital.

- (69) • DeFrancis, Vincent. "The Status of Child Protective Services, A National Dilemma." Kempe, C. Henry and Helfer, Ray E., editors. Helping the Battered Child and His Family. J.B. Lippincott Co., Philadelphia, 1972, pp. 127-145.

This chapter is based on a two-year study done by the American Humane Association to assess the status and availability of child protective services, and to stimulate change in this area. The full report, including 28 major findings, and a state-by-state analysis support the thesis that this program is grossly underdeveloped.

The major findings of this study are as follows:

- 1) A child protective service is defined as a program which seeks to prevent neglect, abuse, and exploitation of children by "reaching out" with social services to stabilize family life. It seeks to preserve the family unit by strengthening parental capacity and ability to provide good child care. Special attention is focused on families where unresolved problems have produced visible signs of neglect or abuse and the home situation presents actual and potentially greater hazard to the physical or emotional well-being of children.
- 2) The lack of adequate child protective services results in over-reliance on law enforcement and courts to make decisions regarding removal of the child from the home.
- 3) Child abuse can be seen either as a social problem or a criminal offense. Therefore, it must be decided whether the goal of child abuse reporting is to prevent further abuse, safeguard and enhance the welfare of such children, and when possible, preserve the family unit, or the goal is prosecution of a criminal act.
- 4) In some states the primary referral source for child abuse reporting is not clearly designated. Some possible reasons for this flexibility include indecision on the part of the legislature or a lack of conviction regarding which is the better option: law enforcement or social services; a compromise of conflicting views; or the provision for alternative courses of action in the event that protective services aren't available in the community. This finding raises the following questions:
 - a. How does this flexibility affect the handling of child abuse cases?
 - b. In states where the primary referral source is clearly designated, is there a difference in the handling of cases by:
 1. Child protective services/Department of Welfare?
 2. Law enforcement officials/juvenile court?
 - c. Is the goal of child abuse reporting affected by the primary resource for reporting (when designated)?

- 5) Seemingly there are differences between public agencies and voluntary agencies which deal with the child abuse problem regarding intake, treatment and casework planning.
- 6) Inadequate funding and staffing of child protective service agencies (both public and private) creates a situation where either quality and extensiveness of services are sacrificed so that more cases can be handled or intake is arbitrarily limited so that better casework and followup occur.
- 7) There is a need for better role delineation among service agencies to avoid duplication.

- (70) • Mnookin, Robert H. "Foster Care - In Whose Best Interest?" Harvard Educational Review Vol. 43, No. 4, November, 1973, pp. 599-638.

In 1970 there were some 285,000 persons under age eighteen, among the nation's nearly 70 million, for whom the state had assumed primary responsibility. About one half of these youth living under the auspices of public welfare agencies were voluntary placements on the part of the parents. Mnookin maintains that these "voluntary placements" are not always truly voluntary. A substantial degree of state coercion may be involved, as when state welfare departments give parents the option of giving up their children voluntarily rather than facing court process. He questions the legal rights ignored in the process, and the general focus of the legal process:

1. What legal standards should govern the judicial decision to remove a child over parental objections and place the child in foster care?
2. How can the law ensure developmental continuity and stability for children who must be so removed?

Mnookin identifies several major shortcomings in the existing system:

1. The open-ended nature of statutory provisions - "proper parental care, proper parental attention" - require highly subjective determinations, often made by people who are basing their judgments on their own moral attitudes.

2. Foster care, designed to be a temporary arrangement, is not typically short-term. A 1959 study of more than 4,000 children resulted in a prediction that over half would be living a major part of their childhood in foster homes and institutions.

3. Parents are rarely offered rehabilitative services after the children are removed. Case-work attention seems to be focused on the child and the foster parent. Studies by Wiltse and Gambrell, and Maas and Engler have shown that only 15-25% of the children are returned to their parents.

4. "Long-term plans that would provide children with a sense of security and stability are seldom made and rarely implemented...Moreover, because neither the foster parents nor the agency is under an obligation to keep the child where originally placed, children are often moved from one foster home to another."

Mnookin also discusses the best interests of the child test, and some of its shortcomings when used in removal decisions.

1. It ignores the interests of the parents.
2. The decision must be based on the possible alternatives and how they might effect the child. This involves information which is difficult if not impossible to obtain - for example, how the child will adapt to foster parents who have not yet been chosen.
3. "By necessity, a judge is forced to rely upon personal values to determine a child's best interests...(this) is especially risky when class differences confound the problem" Issues such as the sexual morals of parents, religion, and physical condition of the home have triggered strong responses from judges.
4. In many cases, when attachments begin to grow between foster children and foster parents (seemingly a positive factor for the child), agencies tend to move children "for their best interest."
5. The best interests standard is used in some courts for determining jurisdiction. When statutory standards determine jurisdiction, they are extremely vague and in reality provide little

structure and guidance. The jurisdictional decision is the same whether the court is going to supervise the child within the home or remove the child.

Legal procedural reform might force judges to make more factual and consistent decisions. Lawyers' involvement particularly might make judges more aware of their own values which influence decisions. Further, agencies might file fewer petitions if court process became more costly and involved. Procedural reform alone cannot correct the fundamental fault in the system: the court's wide discretion.

Legal standards for removal must be clearly spelled out such that certain facts have to be presented which prove conclusively that removal is the only alternative, that all other avenues have been explored. Mnookin suggests that the court be required to specify in writing the basis for the conclusion that the child was immediately and substantially in danger, and an explanation of why other alternatives available are inadequate. This might prevent court evaluation of parental morality or sexual conduct, except when this endangered the child's health. He also recommends separate counsel for child and parents. All terms used in standards must be strictly defined, such as danger, immediate, substantially, health (possibly limiting this to physical health).

One goal of new standards is to require states to provide more resources for the protection of children within the home. Any new legal process should ensure a greater degree of stability for the child, at the time of removal, by fixing maximum time limits for temporary foster care as part of the disposition. At the end of that period, either the child would be returned home or freed for adoption. It would have to be proven by the state that during the removal period all services offered to the parents had in fact been made available.

- (71) • Nagi, Saad Z. "The Structure and Performance of Programs on Child Abuse and Neglect", Interim Report Submitted to HEW/OCD, March, 1975.

This report presents initial findings of a study begun in 1974 of child abuse and neglect programs in the United States. The study plan included two components: interviews with members of agencies handling child

abuse and neglect; and a survey of child abuse agencies and programs representing a probability sample of the U.S. population.

The initial interview component was used to gain an understanding of the issues, problems, and strengths of programs in the field. The second study component also included interviews with child protection service directors, juvenile courts judges and referees, juvenile division heads of police and sheriff's departments, public health supervisors, assistant superintendents of school systems, and hospital-based medical and social service personnel. Agencies were selected on the basis of a probability sample of 8,090 household units.

Study findings include cases of both abuse and neglect. Protective service departments were questioned as to the proportion of children reported to them who are considered cases of abuse; the weighted average for the total sample was 27.9%. Program areas explored included emergency telephone lines, placement, decision-making, inter-agency coordination, case-finding, and reporting. Police departments were found to be most optimistic about the effectiveness of their programs; public health departments were the least optimistic with only 17% rating their programs as "very effective". Lack of inter-agency coordination and inadequate staffing qualifications were cited as the two major impediments to program effectiveness.

- (72) • Newberger, Eli H., M.D. "The Myth of the Battered Child Syndrome", Current Medical Dialog, Vol. 40, No. 4, April, 1973.

Recent work on childhood accidental injuries has led to a more human view of child abuse which focuses on the parents' capacity to protect a certain child rather than any 'intent' to injure. Studies by Holter and Friedman, Gregg and Elmer, and Sobel demonstrate a common causal background behind all childhood accidents which has to do with the inability of a parent to nurture his/her children. This failure stems directly from ascertainable environmental conditions which may not be accessible to the traditional intervention modalities of many of the 'helping' professions.

The Children's Hospital in Boston defines Trauma X (their euphemism for child abuse) as an illness, with or without inflicted injury, stemming from situations in the child's environment which threaten his/her survival. This definition is intended to be non-punitive and to allow for a commitment of resources flexible enough to be adapted to individual circumstances.

The model system which has been introduced at Children's Hospital may demonstrate successful treatment relationships more than lasting intervention. For a physician, this may mean a somewhat unaccustomed professional role -- for example, becoming advocates for the children and their families. Rein and Richmond are cited as having explored the ethical and political implications of this kind of professional activism.

Newberger notes that management problems will persist, even with more adequate resources, and may grow worse with broader reporting laws. Not the least of these problems are difficulties with public welfare departments who are finding it impossible to cope with the ever-increasing number of reported child abuse cases, and whose policies and activities regarding child protection are too often conveyances of those values which advocate taking children away as the ultimate 'protective' measure. The work of Piven and Cloward, and of Steiner examine the current 'service' structure, which has vested interests in maintaining certain conditions of poverty, and which may use the application of 'protective services' to intimidate welfare rights demonstrators.

Physicians face a dilemma in assuming the ethical obligation to intervene where a child's life may be in danger, for the tools of intervention may be incompetent or even destructive. There is evidence that specific, vigorous activity directed at the causes of an individual family's crisis can make a difference. Physicians and medical institutions can work toward making public agencies more adequate in sustaining families where children have been abused. This could lead, ultimately, to a coherent and human approach to the control of child abuse.

- (73) • Newberger, Eli H. and Hyde, James N. "Child Abuse: Principles and Implications of Current Pediatric Practice", Pediatric Clinic of North America, August, 1975.

This paper summarizes data and experience with child abuse pertinent to child health practice. It's goal is to foster sound and rational medical management, but because of the complexities which surround child abuse, issues of policy and program development are also discussed.

The central issue in child abuse is the extent to which a child's life context is protective and supportive. In the development of a program to help a family better its offspring, one needs to identify strengths in a family which can be built upon and resources which can operate effectively to integrate safely child and parent. A decision to invest professional resources in crisis-ridden families should be based, at least in part, on the availability of viable alternatives. Homemaker, child care, counseling, and foster care services are costly and difficult to obtain. Newberger cites Beyond the Best Interests of the Child as a provocative work which calls for flexibility and creativity in deploying intervention tools appropriate to each case. At present, few if any states have adequate personnel and resources to deal with the increasing number of cases reported. It is well for physicians and other professionals to be aware of the disparity between needs and services. Accurate data would be an important stimulus for the improvement of services to abused children and their families.

Newberger presents an overview of the current child abuse reporting statutes, and discusses the conflicts created for professionals who are required to report. These conflicts may arise from the ambiguous nature of the statutes themselves or from a theoretically non-punitive statute which may be punitive in effect. While there are no clear decision rules which resolve these conflicts, a direct approach might be to present the report to the family as being a referral for services (not necessarily a referral to court) and as equal obligation on the part of the practitioner. While this approach may palliate the anxiety labeling and stigmatizing aspects of the current reporting process in most of the states. Statutes which provide for Central Registry do not always have expungement and limited access provisions, and it is well to remember that information submitted to such a Registry may be used at a later date to raise the issue of the family's competence or risk to the child.

The individual reporting a case must also ensure that the family will not "fall between the cracks" of the service structure. The resources available for the implementation of child abuse reporting statutes nowhere nearly approximates the existing demand for services in most states.

Fourteen attributes of a model medical child abuse management system are presented to guide professionals in meeting the challenge of the existing legal framework within which they must function:

1. Professional service orientation toward strengthening the family unit.
2. Attention to the community context - resources, values and traditions.
3. Services designed to respond creatively to individual families' needs.
4. Attention to fundamental civil liberties.
5. Regular evaluation of effectiveness of intervention.
6. Clearly defined responsibilities in case management.
7. Twenty-four hour a day services.
8. Adequate commitment of resources.
9. Adequate legal representation of all parties concerned.
10. Flexible administration and organization.
11. Child advocacy and child development education.
12. Systematic attention to public policy development.
13. Citizen supervision of professional policies.
14. Population-based eligibility for services.

- (74) • Newberger, Eli, et al. "Child Abuse in Massachusetts. Incidence, Current Mechanism for Intervention, and Recommendation for Effective Control," Massachusetts Physician 32(1):31-38, January, 1973

Presented are the detailed findings and recommendations of the Governor's Committee on Child Abuse, convened by Governor Francis W. Sargent of Massachusetts in 1970. Newberger reports the results of a questionnaire study conducted in Massachusetts in 1970. From a sample of 825 physicians, pediatricians

and general practitioners, 281 replied. These replies indicated 224 cases of abuse and 416 cases of neglect. Forty-one hospitals of the 125 surveyed replied with 181 cases of abuse and 393 of neglect. Newberger's conservative extrapolation estimates the total number of abuse and neglect cases in the state at 7,290. Makes suggestions for definition of abuse.

- (75) • Newberger, Eli, et al. "Reducing the Literal and Human Cost of Child Abuse: Impact of a New Hospital Management System," Pediatrics 51(5):840-848, May, 1973.

The authors discuss the treatment of child abuse and neglect from a team approach and using refined techniques of diagnosis and risk estimates. The overall technique is evaluated on a cost per patient basis and the readmission rate of the abused children. The per-team cost per patient was \$3,000 and the post-cost \$2,500 with 10% readmission before the formation of the team and only 1.7% after. A life table approach to reinjury risk is illustrated.

- (76) • Pike, Enid L. "C.A.L.M.--A Timely Experiment in The Prevention of Child Abuse." Journal of Clinical Child Psychology 2(3):43-44, Fall, 1973.

Describes the origin, goals, and functioning of C.A.L.M.--Child Abuse Listening Mediation. Program is designed to prevent child abuse, and to solicit the voluntary response and involvement of parents who are demonstrating symptoms of potential child abuse in seeking and accepting help. C.A.L.M. is in close cooperation with other organizations in the community, and is used by physicians frequently. During the first two years of existence, 481 cases were handled.

- (77) • Purvine, Margaret, and Ryan, William, "Into and Out Of: A Child Welfare Network," Child Welfare 48(3): 126-135, March, 1969.

This study analyzes the acceptance procedures in the welfare agencies (13) of a metropolitan area and indicates that each agency tends to serve its accustomed clients. The authors suggest that from a network viewpoint this behavior, although rational within the individual spheres of the agency, is neglecting certain portions of the community. There is a distinct tendency to accept only those cases which can readily be resolved by the agency.

- (78) • Rochester, Dean E. et al. "What Can the Schools Do About Child Abuse?" Today's Education 57: 59-60, September, 1968.

Results of a two-page questionnaire sent to 45 elementary school principals and counselors in a midwest metropolitan area are presented. Results are limited because questions asked were mainly descriptive in nature. A total of 21 respondents indicated that 61 cases of child abuse had come to their attention. In 31 cases the counselor in the school had conferences with the abusing caretakers. Conclusion was that school personnel can be important in stopping child abuse.

- (79) • Savino, A. B., and Sanders, R. Wyman. "Working with Abusive Parents, Group Therapy and Home Visits," American Journal of Nursing, 73:482-484, 1973.

Presents an overview of the program of UCLA Neuro-psychiatric Institute in working with abusive parents, including group therapy for parents who have been charged in court with either "child abuse" or maintaining an unfit home." The approach emphasizes acceptance of the parent and the inculcation of parenting skills.

- (80) • Sherman, E. A., Neuman, R. and Shyne, A. W. 1973. Children Adrift in Foster Care. New York: Child Welfare League of America.

Purpose of this research was to determine why children get "lost" in foster care and what can be done to ameliorate this phenomenon on a realistic practical level; and secondly, why and what can be done about the natural parents who also get lost in the foster care system, the latter being seen as worthy of status since many children get lost because their parents are lost in terms of rehabilitation or planning.

The research plan studied foster care for one year in a metropolitan child welfare agency. The children (422) were divided into two experimental groups and one control group. Two intervention strategies were used in the experimental groups: 1) a one-page form calling for the worker to check how plans for the child were progressing on a periodic basis and serving to remind both the worker and supervisor of the status of every child; and 2) the addition of two caseworkers, experienced but non-MSW, to work with the natural parents

of children in order to facilitate the child's return home by assisting the parents in altering conditions that interfere with the child's return, or to make viable alternative plans for the child if return to his home of origin was not in his best interest.

Findings are as follows: In this study the two intervention strategies used did not statistically significantly increase discharge rates of the children. Certain baseline, antecedent variables as indicated in other foster care research showed a stronger statistical relationship to retention or discharge of children from foster care than the intervention.

- (81) • Silver, Larry B. et al. "Child Abuse Laws - Are they Enough?" Journal of the American Medical Association 199:65-68, January 9, 1967.
(C)

Presents the results of a survey of 450 physicians in the Washington, D.C., metropolitan area on their knowledge of the Battered Child Syndrome, their awareness of the community procedures available, and their attitude toward handling such cases separately, under the protection of the new child abuse laws.

Results based on a return of 179 questionnaires suggest that methods of communication between medical and community organizations and the physicians have not been completely effective in familiarizing the physician with the Battered Child Syndrome or with the community procedures to be used for the reporting of child abuse cases.

- (82) • Silver, Larry B., et al. "Child Abuse Syndrome: The 'Gray Areas' in Establishing a Diagnosis," Pediatrics 44(4):594-600, 1969.
(C)

Exploration of situations in which the physician found it difficult to establish or rule out the diagnosis of child abuse. In such cases, the major issues were the physician's subjective personal feelings, his misunderstanding of the child abuse laws, and his role and responsibilities. The five main reasons for non-reporting were indicated as: (1) subjective interference where the child abuse diagnosis was rarely considered (28%); (2) benefit of the doubt - physicians tended to accept even the most implausible rationale for injury (19%); (3) responsibility for act uncertain -

the physician was unable to positively identify the abuser (19%); (4) parental privilege to punish (6%); and (5) effects of alcohol rendered abuser unconscious of actions (17%). Authors point out that it is more difficult to develop an approach to minimize the physician's subjective feelings or personal views which confound his ability to establish the clinical impression.

- (83) • Terr, Lenore C. and Watson, Andrew S. "The Battered Child Rebrutalized: Ten Cases of Medical-Legal Confusion," American Journal of Psychiatry, April 1968, 126-133.

Both court workers and judges fail to exercise authority in battered child cases, causing many delays in the processing of these cases. Of the ten studied here, the shortest processing time was one year. In the event of criminal court involvement with the parent, it may supersede juvenile court jurisdiction.

In a survey of Washington, D.C. physicians, one-fourth of the respondents stated that they would not report battered children to the police, even with legal protection - reflecting the basic value conflict that exists between therapeutic and punitive aims. Another factor in underreporting of child abuse cases is a traditional overconfidence of doctors and psychiatrists in successful therapy if the cases remain voluntary.

- (84) • Wasserman, Sidney. "The Abused Child" Today's Education 63(1):40-43, 1974.
(B)

The conclusion is reached that perhaps the best preventive measure schools could institute to combat child abuse and maltreatment is education for parenthood, including such topics as punishment and child care. Education of this kind should be at all levels in the curriculum and include both sexes. Some schools have living laboratories where secondary students work with preschoolers in nurseries; these programs offer ideal opportunities for students to learn about young children and their needs. But parent education could also involve parents of pupils in the school system. The school nurse, social worker, and classroom teacher could discuss and advise parents on problems of child-rearing and discipline.

III. LEGAL INTERVENTION

- (85) • Aron, Peter S. and Katz, Martin L. "Corporal Punishment in the Public Schools - Murphy v. Kerrigan", Harvard Civil Rights - Civil Liberties Law Review, Vol. 6, 1971, pp. 583-594.

This article discusses a case that challenges the constitutionality of corporal punishment on the grounds that it constitutes cruel and unusual punishment in violation of the eighth amendment and is a deprivation of liberty without due process of law in violation of the fourteenth amendment. The question remains whether corporal punishment is cruel and unusual within the meaning of the eighth amendment. The author cites the reason used by the National Educational Association in concluding that corporal punishment is ineffective and harmful in reducing behavioral problems. He also cites cases in which the decisions reflect the courts' attitude on the physical integrity of a person as an underlying value of the fourth amendment.

Courts have held that corporal punishment of children must be administered without malice; be reasonable in the light of the age, sex, size, and physical strength of the child; be proportional to the gravity of the offense; and be performed to enforce reasonable rules.

The authors conclude that if corporal punishment is not abandoned, then every appropriate safeguard must be developed to protect the constitutional due process rights of the child. Ultimately, corporal punishment must be recognized as antithetical to democratic principles and as socially counterproductive, and abolished in the schools.

- (86)^a
(B) Bard, Morton. "Family Intervention Police Teams as a Community Mental Health Resource." The Journal of Criminal Law, Criminology and Police Science 60(2): 247-250, 1969.

The writer describes a program in which an academic institution is collaborating in an action program with a local police organization in an urban area. The model of training police as specialists in family crisis intervention while maintaining their basic identities as working policemen holds promise of wider applications than in family disturbances alone. In addition to the obvious advantages of bringing realistic police services to the community, it demonstrates that the applications of sound psychological principles may increase the policeman's effectiveness and his own personal safety as well.

- (87) • Barocas, Harvey A. "Urban Policemen: Crisis Mediators or Crisis Creators?" American Journal of Orthopsychiatry 43(4):632-639, 1973.
(B)

In rendering police services during a family crisis situation, the very actions undertaken to reduce interpersonal conflict may precipitate or intensify violent reactions. If this interactional phenomenon is acknowledged, then psychological training in crisis intervention can assist police in the prevention of violence and contribute to community mental health.

- (88) • Burt, Robert A. "Forcing Protection on Children and Their Parents: The Impact of Wyman v. James", 69 Michigan Law Review 1259.

This article analyzes the Supreme Court's opinion in Wyman v. James 400 U.S. 309 (1971), and measures and contrasts its implications with those of the Supreme Court's decision in In Re Gault 387 U.S. 1 (1967) with respect to the application and extension of due process rights into areas where the state claims to be intervening in the lives of individuals for benevolent purposes.

The Wyman case involved an appeal by an A.F.D.C. recipient of the termination of her benefits because of her refusal to permit home visits by a welfare caseworker. The plaintiff-welfare mother argued that a caseworker must obtain a search warrant to compel home visits and payments could not be terminated until a warrant had been obtained. The lower court held for the plaintiff and imposed a warrant requirement. The Supreme Court reversed, finding that this Fourth Amendment right did not extend to home visits by welfare caseworkers. Apparently an important factor in the decision was the argument that a primary objective of the intended home visit was the "protection and aid" of the plaintiff's child. The court found that the public's concern for the welfare of the dependent child was paramount to the rights claimed by the mother (under the Fourth Amendment).

Burt's concern is that the Wyman Court did not pursue the question whether any of the alleged beneficent purposes of the coerced home visit had any probability of accomplishment. He contrasts the Wyman decision with the Gault decision. In the latter, the Court noted the shortcomings of the juvenile justice system

and found these relevant to the likelihood that the courts' promise of treatment and rehabilitation (used to justify lack of due process) would be kept. In the former, the Court noted the shortcomings of welfare caseworker services but in spite of these shortcomings assumed that the alleged beneficent purposes would be met.

The implication is that the present Court will not extend Gault beyond those proceedings where a juvenile is charged with a crime. The directly opposing views of Wyman and Gault as to the propriety of, and the necessary evidentiary basis for, judicial disbelief in the reality of the state's alleged beneficence and protection may continue on separate paths with Wyman being applied to welfare administration and Gault to juvenile court administration.

Having shown the Court's two opposing views, Burt establishes that in the area of child abuse and neglect procedures, these two views will clash, requiring the Court to make a choice. He then argues that either view is appropriate and thus to adopt either view entirely would be inappropriate. He suggests a reconciliation and accommodation of the two views incorporating some aspects of the criminal analogue (Gault) and some aspects of the civil analogue (Wyman). This compromise includes:

- the establishment of the parents' right to counsel with waiver permitted;
- the non-extension of the right against self-incrimination;
- the non-application of strict probable cause standards (at least for medical examinations of child and parents).

The right to:

- full confrontation in open court at adjudication and disposition (with non-disclosure permitted only if the court is clearly convinced of the reality of therapeutic needs for non-disclosure);
- the application of the reasonable-doubt standard;
- the continuation of relaxed authority for pre-trial removal from parental custody but with speedy and automatic review of pre-trial custody;
- the non-extension of self-incrimination rights to children of pre-school age.

Finally, Burt returns to the Wyman decision and suggests that if a warrant had been required, in balancing the interest of the state and the rights of the individual, the Court should have imposed a requirement of a judicial finding of "reasonableness" for coercive home visits when child services or protection are involved; a requirement of "probable cause" when the investigation of the misuse of funds involved; but when the alleged purpose of the coerced visit is rehabilitative services for the mother, and the mother denies access to the home, no warrant should issue at all since it is unlikely that any services forced on her by a coerced visit would have a rehabilitative effect.

Burt concludes by reasoning that if a warrant requirement had been affirmed, the question of waiver of the right would need to be addressed. He recommends that in the welfare recipient case, the waiver possibility should be retained, since actual refusal of offered services is a necessary first step in presenting a real dispute to the court and in requiring the welfare agency to define and justify, with some precision, its actions in coercing assistance.

- (89) • Carpenter, James W. "The Parent-Child Dilemma in the Courts", 30 Ohio State Law Journal, Spring 1966, pp. 202-309.

The problems confronting the courts in cases involving abused abandoned, delinquent, dependent, and neglected children involve balancing the interests of the child against those of the parents and society. Determinations must be made as to whether a child would be better off with a parent after some rehabilitative efforts on the part of state agents, or in an institution which cannot supply parental love, facing the risk of never being adopted by foster parents. Lawyers, judges, social workers, and others working in the child welfare areas must be aware not only of the law, but also of the facilities with which they have to work.

The victimization of children by their parents creates the need for state regulation of the parent-child relationship, and in some extreme cases the involuntary severance of family ties. The right of the state to intrude into the home of its citizens is based upon police power, the sovereign rights of government over its citizens, and the modern state's interest in protecting its human assets. Natural parents have primary custodial rights to their children, but the state has imposed conditions on the manner in which a family may

live: school attendance and child employment restrictions are examples. There is a complex legal framework for dealing with children who are deemed not properly cared for by parents or guardians.

State Reporting Laws

The author notes that abuse of children may be preceded by instances of parental neglect; it thus is important to recognize early symptoms. In Ohio, reporting of nutritional deficiencies to police (with possible removal of the child from the home) is a statutory obligation of physicians, nurses, teachers, and social workers. Making failure to report child abuse a criminal offense may act to deter parents who otherwise might seek assistance for a child. Immunity from civil and criminal actions as a result of reporting would be sufficient, the author feels, to encourage reports by physicians except in cases where physicians actively assist parents to cover up severe instances of abuse or neglect.

Termination of the Parent-Child Relationship

The care of natural parents may override many adversities faced by children whose home lives do not measure up to an ideal. Where the interests of the child appear to demand it, however, the state may terminate the parent-child relationship, either temporarily or permanently. If a parent or guardian abandons a child; or where a child is physically abused by the parents, sexually assaulted, or denied the rudiments necessary to sustain life in an acceptable manner; or where the parents assist, abet, or allow others to perpetrate such acts; the court may adjudge the child neglected. If there is a finding of neglect or delinquency and the parent has contributed to the child's condition, then the parent may be prosecuted under Ohio's criminal laws. (The status of a dependent child apparently refers to those situations where a child lacks a proper home life through no fault of the parents, and in those cases the parent is not subject to criminal prosecution.)

The author approves Ohio courts' preference for parental custody as opposed to state custody, and advocates temporary termination of custody where separation is advisable. Temporary separation should be followed by simultaneous attempts to rehabilitate wayward parents and to treat children suffering from nutritional and other deficiencies, which may spring in part from poverty status. Three grounds for termination of the parent-child relationship are noted: failure to fulfill education requirements, in order to obtain medical care and treatment, and as a result of undesirable associations.

Prosecuting Abused or Neglected Child Cases

In cases where no decision is made to terminate the parent-child relationship, it is not considered desirable to prosecute the parent or custodian because of the strain this would create in a presumably already weak relationship. However, where the court has made a determination that the parent-child relationship ought to be permanently severed, then prosecution of a criminal case against the adult may be in order. Certainly it is called for in severe cases of child abuse: sexual offenses, homicide, or lesser offenses such as battery.

Juvenile court has concurrent jurisdiction with criminal courts in Ohio for cases involving abusing a child or causing neglect, dependency, or delinquency. In abuse cases the prosecutor must familiarize himself with the child's background and family relationships. There may be a pattern of admissions to a hospital, registry of several complaints under provisions of the reporting statutes, or other children in the same family who may have been subject to mistreatment.

Testimony may be provided by the child, those closest to the child (e.g., the defendant's spouse), or by the examining physician who made the complaint initiating criminal action. These witnesses present unique evidentiary problems. In these cases, the abrogation of husband-wife and physician privilege is often provided through statute. The chief sources of evidence in an abuse or neglect trial may be testimony by the victim of the offense or by a sibling. It is important to examine the child (in Ohio a child under ten years) to discover if s(he) is a qualified witness and whether the testimony is to be received into evidence. In determining competency, the memory, sincerity, perception and ability of the child to relate correctly sensory impressions are at issue. Competency at the date of the hearing is pertinent, but competency at the date of the occurrence is controlling. Failure to conduct a competency hearing constitutes error by the trial court. Once the witness is qualified, s(he) may be sworn and may testify. The Ohio courts apparently have not considered the effect of testimony offered by a child who is too young to be prosecuted for perjury.

- (90) • Cohen, Stephan J. and Sussman, Alan. "The Incidence of Child Abuse in the United States", Institute of Judicial Administration, Inc., American Bar Association, Juvenile Justice Standards Project. New York, N.Y.: November, 1974. (Unpublished Manuscript)

In order to effectively deal with and plan programs for the prevention and remediation of child abuse, it is necessary to know the actual magnitude of the problem. One must know how many cases are suspected, confirmed as actually physically abused, and how many cases are neglected. Experts in the field of child abuse seem to have very different ideas regarding incidence, age of children, even the seriousness of the problem. Factors cited as making it difficult to maintain accurate statistics include:

Lack of uniform reporting laws which specify what is reportable abuse.

Lack of uniform definition of abuse.

Differing age limits for children among states.

Differing mandated reporters from state to state.

Combined abuse/neglect statistics.

Scarcity of data on confirmed reports. (Even where there are figures on confirmed cases, the confirmation reflects standards of evidence that vary from state to state, and also according to the discretion of individual investigators.)

Not all reported cases are investigated. (In Florida, during the years 1971-1973, 75,314 cases of abuse and neglect were reported. Only two thirds - 51,238 - were investigated. Of these, 28,554 or about 56% were found to be valid. This means that 46,760 reports were either left uninvestigated or found to be inaccurate.)

"The only conclusion which can be made fairly is that information indicating the incidence of child abuse in the United States simply does not exist." The paper is an attempt to ask those involved in the child abuse field to use caution in their planning and thinking which may be based on inaccurately estimated rates of incidence."

- (91) • DeFrancis, Vincent. Termination of Parental Rights - Balancing the Equities, Colorado: The American Humane Association, Children's Division, 1971.

Presented is a preliminary assessment of parent-child relationships and the factors to consider before deciding to terminate parental rights. The process must be supported by judicial action and full process of law.

- (92) • DeFrancis, Vincent, and Lucht, Carroll L. Child Abuse Legislation in the 1970's, American Humane Association Children's Division. Denver, Colorado: 1974.

This is a comprehensive volume containing the child abuse statutes for all 50 states, plus definition and analysis of these statutes. It is updated periodically to reflect recent legislative changes.

The preface of the manual discusses the problem of finding and identifying child abuse cases which was the impetus behind the development of mandatory reportive statutes, and more recently, the broadening of these statutes. Medical personnel were selected as the principal target group of the law's mandate as a result of: 1) research which produced evidence that some cases of child abuse could be determined by medical diagnosis; and 2) the belief that physicians, in many cases, are the first "outsiders" who come in contact with an abused child. In anticipation of the fears and unwillingness of doctors to report, immunity from legal action and abrogation of physician-patient privilege clauses were included in most statutes.

The preface also notes that the nature of the statutes may be punitive or curative; i.e., identifying abused children for purposes of social planning to prevent further abuse and for meeting the needs of the family, as opposed to identifying the perpetrator solely for the purpose of punishment. There is definition and discussion of each of the 14 major sections of the statutes.

- (93) • Donovan, Thomas J. "The Legal Response to Child Abuse", William and Mary Law Review 960 (1970), pp. 960-987.

The identification of victims and discovery of the scope of the problem of child abuse by the medical profession so far has resulted primarily in the enactment of child abuse reporting statutes. The legal response to child abuse often is one of

increasing punishment or making child abuse a crime separate from common law battery. Severe punishment of child abusers, however, is likely to create resentment toward the child and place her/him in even greater danger unless removed from the home.

Removal from an abusive environment or protective supervision of the child are theoretical alternatives, but often in practice there is no suitable placement for the child outside the home, and social workers' heavy caseloads inhibit the effectiveness of protective supervision. The courts nonetheless appear to have an increasing tendency to protect the child at the expense of parental "rights" of the child.

Child abuse reporting statutes are unlikely to be an adequate solution, unless society is willing to provide quality institutional alternatives to returning an abused child to the source of abuse. There are three fundamental elements of child abuse reporting statutes: (1) a designated class of persons is required to report suspected cases of child abuse; (2) these reports are to be made to designated public officials who presumably take remedial action; (3) usually an oral telephone report is required, followed by a more detailed written report.

Statutes provide reporter immunity in civil defamation actions, as well as any criminal proceeding arising from the report. Reports typically are made to law enforcement agency or prosecutors; to public welfare agencies which may or may not be required to investigate incidents and report to law enforcement agencies if criminal prosecution is warranted; directly to the court which then directs a public agency to investigate; or simultaneously to law enforcement and public welfare officials.

Central registries are designed to deal with mobility of parents, and abusing parents' practice of not returning to the same doctor. Reporting statutes may provide for the abrogation of physician-patient privilege, husband-wife privilege, or both. They also may provide for the temporary non-judicial removal from parental custody for the protection of the child.

The right of the parent to physically discipline a child is the focus of much of the law of parent and child relations. The most common standard gives the parents the right to punish a child within the bounds of moderation and reason, if done for the welfare of the child. If the parent exceeds moderation, s(he) is criminally liable. Based on the Roman legal

concept of parens patriae, that the state has an interest in the child superior to the parents', there is an increasing tendency for the state, through the court system, to interfere with the parent-child relationship in order to protect the physical health of the child.

The abused child falls within the category of "neglected children"; all states have statutory provision for juvenile court jurisdiction and its power to remove the child from parental custody in appropriate cases. Emergency removal, e.g., for medical attention, and the power to place the child in a foster home or institution are very different. Emergency removal presents few problems. In most courts, cases of child abuse must be established by a preponderance of evidence. One New York court has adopted the doctrine of res ipsa loquitur from the law of negligence, which allows the condition of the child to speak for itself, thereby permitting an inference of abuse or neglect. Practically, however, unless a good foster home is available, the child is often returned to family with "protective services" provided by a welfare agency to the child and its family. The often inadequate nature of institutions contributes to judges' reluctance to remove children from their families.

Mandatory language in reporting laws, and provision for penalties in the case of failure to report, provides an impetus for physicians to report doubtful cases, or cases in which there is parental denial. Further, mandatory language (with or without penalty) provides a strong statement of public policy and appears to encourage reporting.

The classes of persons required or permitted to report, and thereby granted some immunity from defamation actions, may vary. It is argued that the wider the class of persons permitted to report, the greater is the chance of abuse of the statute. It is also argued, however, that the larger the class, the more likely it is that a case of child abuse will be identified. The author proposes broadened classes of reporters coupled with good faith requirements. Persons with some relationship with the child - school personnel, welfare workers, law enforcement officers - should be included.

The author also advocates providing a choice of reporting to public welfare agencies (in cases of minor abuse, where criminal sanctions might provoke further resentment against the child), or law enforcement agencies (if abuse was severe and the child is in danger). This

would circumvent the reluctance of many physicians to report relatively minor abuse to police, founded in the belief that law enforcement action would cause the situation to worsen.

Central registries are a useful diagnostic tool, but reports in such a file may be mistaken or intentionally false. Provisions for removal of false reports must be made, and access to information in registries must be restricted to members of the medical profession who seek such information as part of diagnosis.

The author presents an abstract of reporting laws in the fifty states, the District of Columbia, and the Virgin Islands. These include classes of reporting personnel, to whom the report is made, whether mandatory or permissive, penalties for not reporting, age limits, immunity and abrogation of privileged relationships provisions, existence of central registries, whether reports are oral or written, and comments.

- (94) • Finberg, Lawrence. "A Pediatrician's View of the Abused Child", (editorial) Child Welfare, January, 1966, 45:1:28-33.

The author, a professor of pediatrics and the Chief of the Pediatrics Division at his hospital, describes the frustration of doctors when confronted by the legalities and procedures that they set in motion by reporting. Frustration is particularly great when the child is removed from parental custody to a hospital, thereby tying up valuable space for solely custodial care and neglecting the emotional needs of the child. Doctors having become involved with a court system whose interests are often basically in conflict with their own, will be discouraged from reporting again.

- (95) • Fraser, Brian G. "A Pragmatic Alternative to Current Legislative Approaches to Child Abuse", The American Criminal Law Review, Vol. 12, No. 1, Summer 1974, pp. 103-124.

Reporting Laws

Legislative approaches to the problem of child abuse include mandatory reporting statutes which now exist in all 50 states. Eight characteristics of child abuse reporting laws are explored in this article:

1. Purpose Clause. Customarily these include the phrase "in order that protective services may be brought to bear".

2. Definition of Abuse. Usually this includes any non-accidental or serious physical injury, but it is often broadened to include neglect, sexual abuse, and in a few states emotional abuse. Standards used by the court to determine whether there has been abuse, and what evidence is sufficient to support an adjudication, also vary from state to state.
3. Who is Required to Report. While all 50 states require physicians to report suspected cases of child abuse, other persons required to report include nurses (34 states), social workers (25 states), teachers (24 states), and police officers (9 states).
4. Age of Child. The youngest upper-age limit currently in force is 12 years; while the oldest maximum age, found in a number of states, is 18 years.
5. Immunity. Immunity from liability for reporting cases of suspected abuse is granted in some form in every state. Some grant only civil immunity; the majority offer criminal as well as civil immunity, and a number grant immunity from any other proceeding which may result.
6. Abrogation of Privileged Communication. A minority of states (8) retain the privileged status of confidential communications in any professional or personal (marital) relationships, even when the communication involves child abuse. The remaining states void one or more types of privileged communications, usually between husband and wife or physician and patient. Eleven states void all except the attorney-client privilege.
7. Central Registry. State-wide registries provide the state with statistical data as well as a tracking device to follow allegedly abusive parents who move among jurisdictions, hospitals, and physicians. Some 28 states have established central registries by statute. Opponents note that registries constitute government intrusion into citizens' personal privacy, and that both suspected and adjudicated cases of abuse are included. A number of states have provided for cooperation with other states in exchanging reports to effectuate a national registration system.
8. Penal Sanctions. Criminal penalties for failure to report are imposed by 30 states; these range from a simple misdemeanor to imprisonment and fine. If the mandatory reporting statute may be construed as a criminal statute carrying with it a criminal sanction,

civil liability predicated on the doctrine of negligence per se may also be attached to the statute.

The failure to comply with a mandatory statute which is not supported by criminal penalties may also give rise to civil liability by analogy to those cases upholding recovery based on negligence established by a breach of the criminal law.

Fraser predicts that future trends in mandatory reporting will include expansion of the definition of abuse to cover neglect, sexual abuse, and emotional abuse. Classes of persons required to report suspected abuse will expand; provisions for civil and criminal immunity will be enlarged; confidential communications will be voided with the exception of the attorney-client relationship; and the number of states adopting a central registry will increase. Fraser also predicts that there will be continued efforts by the federal government to promote a voluntary cooperative reporting system and national central registry among the states.

Legislative Innovations

Fraser recommends legislation to make a preponderance of evidence of non-accidental injury sufficient to support an adjudication for neglect and dependency (the prima facie case). The burden of proof in the courtroom is thus shifted to the defendant, who must give a viable explanation of how the injury occurred. If the defendant refuses to give an explanation, or is not reasonable, evidence that the injury was non-accidental will be sufficient to support the adjudication.

A guardian ad litem should be appointed to represent the child in any legal proceeding, to make a factual investigation, have access to information concerning the child, introduce evidence and witnesses, and examine any witness who testified, in order to protect the long-range interests of the child. The role may parallel that of amicus curiae, with the opinion being advisory to a disposition.

Legislation allowing a physician or hospital to retain custody of a child against the parents' wishes has been passed in several states, under the following conditions: (1) there is reasonable cause to suspect the child has been abused; (2) it would be dangerous to release the child into the parents' custody; and (3) the appropriate authorities are notified at the earliest possible time, usually within 72 hours.

Treatment Approach

Fraser notes that child abuse usually involves a learned personality disorder as well as certain common precipitating factors, and that criminal prosecution is not a practical approach. The conditions which precipitated the initial abuse will remain and may give rise to further instances. Children also may assimilate the behavior patterns of their parents and themselves become abusive parents. He proposes civil or juvenile court proceedings which avoid adversary and punitive approaches in favor of "curative" ones. These will make parents more willing to cooperate with various agencies in their efforts at re-education and reconditioning. "The initial objective, under a pragmatic approach, is to get a foot in the door as quickly and humanely as possible."

Fraser concludes that it is best to make contact with abusive parents before the child has been seriously abused, and before criminal charges are filed. He feels that mandatory reporting of suspected abuse will provide a vehicle for accomplishing this. Successful therapeutic approaches to the problem of abuse identified by Fraser include lay therapists, "parents anonymous" groups, and crisis nurseries. Other services which can be utilized in abuse situations include homemaking services, foster grandparents, visiting nurses, social workers, pediatricians, and psychiatrists.

- (96) • Fraser, Brian G., Child Abuse and the Central Registry, The National Center for the Prevention and Treatment of Child Abuse and Neglect, Denver, Colorado. (Unpublished Manuscript)

Fraser cites a need for some leverage to force professionals to report suspected child abuse, and also for a "physical plant in which reports of child abuse are recorded and appropriately cross indexed". There are three major goals of the registry: 1). to generate statistics on abuse; 2). to aid physicians and/or courts in the determination of abuse; 3). to track "hospital and doctor shoppers." The alternate goal would be to identify the abused child at the earliest possible point in time and stop the abusive case from becoming the terminal case.

Fraser specifies the types of information to be collected; how each type of registry would function; and who would have access to information. He also notes objections raised regarding the registry concept:

1. Reports will consist of adjudicated and suspected cases of abuse. In the latter, the listing will be without the right of counsel or appeal.
2. Many states do not restrict access to the registry.
3. Most states do not provide expungement provisions.

Fraser feels that a narrow and concise statute with proper procedural safeguards could overcome the problems. Some safeguards are presented.

Fraser feels that the transient nature of modern society precipitates a tracking problem. The solution presented is a Federal Central Registry or, alternatively, the development of a central registry by each state with reciprocity agreements for the exchange of information. Fraser advocates the second alternative as being more acceptable to most people, and probably more feasible.

(97) • Gil, David G. "The Many Faces of Violence Against Children." Testimony before the U.S. Senate Subcommittee on Child and Youth on the "Child Abuse Prevention Act" - S.1911, 93rd Congress, 1st Session, March 26, 1973

Any act of commission or omission by individuals, institutions, or society as a whole, and any resulting conditions which deprive children of equal rights and liberties and/or interfere with their optimal development, constitute by definition abusive or neglectful acts or conditions. These include acts on the part of parents or individual caretakers; institutions such as schools, juvenile courts and detention centers, child welfare agencies, and correctional facilities; and abuse and neglect tolerated or perpetrated by society collectively, such as malnutrition, inadequate medical care, housing, and education of (expectant) mothers, children, and whole families. That is, child abuse comprises any condition which tends to seriously inhibit normal and healthy human growth and development. Probable causes of physical child abuse include emotional illness of psychological disturbance, but also include extreme examples of the normal and widespread use of corporal punishment in child rearing. Abusive incidents which occur in the context of the perpetrator's emotional illness also are facilitated by cultural acceptance of the use of physical force in child rearing.

Reliable information on the incidence of child abuse is not available because of differences of opinion as to what is to be classified as child abuse, and also

because of the non-public nature of many cases. Although there is some information on the number of legally reported cases, procedures for reporting vary widely across states and localities. Moreover, reported incidents are merely an unknown fraction of real incidence. While there is no evidence for or against an increase in real rates of incidence, there is evidence of increases in reporting levels. This may be due largely to improvements in the administration of reporting legislation and to growing awareness among physicians and others responsible for reporting. Reported incidents involve almost exclusively abuse of children in their own homes; public authorities seem reluctant to keep records of child abuse in the public domain (e.g., schools and public institutions). Nor are there systematic records of the massive abuse and neglect of children due to substandard living conditions such as those found in migrant labor camps, in urban and rural slums, on Indian reservations, etc. These public forms of abuse and neglect are the most serious in qualitative and quantitative terms, but the least noted and acted upon aspects of the child abuse spectrum.

Based upon national surveys conducted in 1967 and 1968, it appears that while physical abuse of children occurs in each stratum of society, the incidence rate is significantly higher among economically deprived segments of the population. Gil speculates that the living conditions of low-income and minority groups involve comparatively more daily stress and frustration, which are reflected in lower levels of self-control and in a greater propensity to discharge angry and hostile feelings toward children. He noted further that economically deprived families tend to live under more crowded conditions; the rate of one-parent families is higher; parents have fewer opportunities to arrange substitute care for their children; and having fewer educational opportunities, parents' child rearing methods are more traditional with more reliance on physical discipline. Thus, although medical and other authorities may be less likely to suspect and report abusive incidents among the privileged, Gil concludes that incidence rates of child abuse on the part of individual parents do tend to be higher in economically deprived families whose children also are exposed to the forms of societal abuse implicit in poverty.

In terms of age, Gil's nationwide data suggest that about half of reported abuse incidents involved school-age children, and over 75% were over two years old. There is a higher rate of incidence during adolescence,

especially for girls. Very young children, while not the primary abuse victim group, do tend to be more seriously injured when abused, and fatal injuries occur nearly exclusively among the very young.

In relation to Senate Bill 1191, Gil noted that a precise definition of child abuse and neglect was necessary in order to know what was to be identified, treated, and prevented, and in order to evaluate the effectiveness of these measures. He recommended inclusion of a statement concerning the basic rights of children to the full protection of the U.S. Constitution as persons. The bill should further outlaw all forms of physical force used against children in the public domain, in schools, and in child care facilities, as not serving the educational and developmental needs of children, but rather providing ventilation for the frustrations of adults. Gil advocated provision of a minimum living standard by the public to all children in order to avoid socially sanctioned abuse and neglect. He felt that the National Center on Child Abuse and Neglect should properly be an integral unit of the existing Office of Child Development, since the prevention of child abuse and neglect are to be viewed as integral aspects of promoting the development and well-being of all children. Central registries of "accidents" raises questions concerning the nature of accidents to be listed, the purpose for which they are to be listed, and the objectives to be accomplished by establishing a (nationwide) registry. Gil was concerned that the \$90 million demonstration program might create "one more illusion that child abuse can be prevented through cooperative, clinical services." He suggested that preventing child abuse and neglect is possible only by attacking its sources in the society and culture, rather than providing social and medical services to its victims.

Gil recommended that the National Commission proposed in the bill investigate the underlying dynamics of child abuse and neglect and develop policy recommendations aimed at eliminating the sources of the phenomenon. He recommended further that the Secretary of DHEW and the Director of CDC not be ex officio members of the Commission since the effectiveness of existing policies and programs might have to be questioned. The bill passed the Senate July 11, 1973, and provided for establishment of regional centers for the identification and treatment of abused children, as well as development of programs to prevent child abuse and train personnel to staff the regional centers.

- (98) • Gil, David G. "A Holistic Perspective on Child Abuse and Its Prevention", Journal of Sociology and Social Welfare. Vol. II, No. 2, Winter, 1974.

In recent decades, child abuse has come to be considered a social problem of significant scope, and to attract intense public and scholarly interest. Perhaps the most serious obstacle to clarity in the understanding of the problem, and to effective intervention, is the prevailing conception of social problems as isolated, fragmented phenomena, rather than as consequences of the societal context in which they evolve. As a result, the problems tend to persist unchanged or even to increase in scope, while the bureaucracies which study and deal with them tend to grow into major industries.

This essay defines child abuse as: "inflicted deficits on a child's right to develop freely and fully" and discusses the occurrence of the problem on several inter-related levels, termed "levels of manifestation" and "causal dimensions". The analysis suggests that primary prevention of child abuse would require fundamental changes in value premises, in societal institutions, and in child-rearing.

Gil suggests that modifications of children's rights, elimination of poverty and alienation at work, and the rejection of force to achieve societal ends as means of primary prevention. These measures would indirectly influence psychological wellbeing, and eliminate the processes which now trigger child abuse in interpersonal relations.

- (99) • Katz, Sanford N. When Parents Fail: The Law's Response to Family Breakdown. Boston: Beacon Press, 1971.

This book examines the process of state intervention into the parent-child relationship, which occurs when parents fail. Failure occurs when parents do not promote the goals society deems appropriate to the family relationship. Katz analyzes the state's expectations of parenthood and observes that while the law shows a preference for family living as a desirable social goal, it does not give protection to families as a social unit. Legal protection of the family is found only upon examination of individual relationships, e.g., husband-wife, parent-child. The state wishes to promote stability and integrity and requires parents to provide financial security, health and education, morality and respect. These are vague standards,

however, and assume something occurs which prompts someone to question the parental right to custody. This intrusion into the parent-child relationships occurs in response to child neglect or child abuse. Katz differentiates the two by stating the former generally involves passive conduct, whereas the latter involves active and usually intentional behavior. Katz addresses only the problem of neglect.

Public intrusion into neglecting families is divided into four stages: report, investigation, challenge, and state intervention. The report can come from a wide range of sources, and to a wide variety of agencies. There are few legal standards and reporting is as often the result of economic, ethnic, or personal factors as it is the result of the application of legal standards. Reporting primarily involves the urban lower classes who are more visible because their lives are more public, whereas the suburban middle classes have more privacy and benefit from a presumption of their neighbors that they are fit parents. The role of police in domestic matters is also more passive in suburban than in urban areas.

The agency receiving a report usually makes its own investigation. This involves wide discretion, since the agency on the basis of its own investigation determines whether to challenge parental custody. Various degrees of coercion are used to facilitate the investigation, including reliance on police. The agency evaluates the information and determines to take further action or to drop the case. A social service agency may offer services in lieu of further legal action.

Child neglect proceedings are initiated by filing a petition. This often occurs long after a parent's first contact with an agency. The court may conduct a further investigation; the timing, manner, and scope can vary widely from one jurisdiction to another. Katz observes that with a few isolated exceptions court hearings have the earmarks of fairness, but whether fairness exists in practice would require an empirical study of the lower courts.

Actual intervention of the state and the judicial decision to intrude into the family relationship are based on a state's neglect statutes. These do not define the state's expectations of parenthood in a positive sense, but are written rather in negative terms. Standards that apply to the intervention decision depend on the professional identity of the

person setting the guidelines. In theory a child is best (i.e., ideally) reared by his biological parents who at least have the potentiality for carrying on the healthiest parent-child relationship. In actuality, others may perform the task of child-rearing better by serving both the emotional and physical needs of the child.

The broadness of neglect statutes permits abuses that may go unchecked due to the absence of a written opinion and the paucity of appeals. This is also the danger of over-reliance by the court on both the administrative procedures and recommendations of social agencies resulting in a de facto delegation of the court's power to the agency. Further, the lack of jury trials increases the amount of discretion and makes the case's outcome dependent on the view of one man rather than on the possibly varying views of many.

Katz notes that the number of appellate decisions concerning child neglect cases is quite low, and very few deal with physical harm or emotional deprivation. He observes, however, a recent trend in appellate courts to decline to impose middle-class mores upon families and then punish a parent's conduct unless it can be shown to result in damage to the child. Although appellate courts are declining to impose moral standards, the lower courts may still be doing so. In cases where a parent seeks return of a child voluntarily or involuntarily surrendered, the parent has a difficult time regaining custody, both on the trial and appellate level. The presumption of parental fitness seems no longer in force once a finding of neglect has been entered.

When intervention occurs a number of results may follow: the child may be returned to its parents under supervision, or the social welfare agency involved may seek temporary custody, usually resulting in a foster home placement; or the agency may seek permanent custody resulting in the eventual termination of parental rights and adoption of the child.

With respect to foster care, Katz notes that it is a lower and lower middle class phenomenon. Theoretically, foster care is non-permanent, therefore the standards for temporary custodians differ from standards for permanent custodians. However experience shows that to assume non-permanence in foster care is unrealistic. Foster care requires persons to adopt inconsistent attitudes: foster parents are expected to provide all that the natural parents would provide but they are obliged not to form any emotional attachments; and if

they do, the child is often placed in another setting. In addition, agencies maintain ultimate control over the foster parent-child relationships based on the agencies' answerability to the court that granted it custody. The courts, however, do not oversee or review the agencies' activities. Katz sees foster-care as a viable alternative if used exclusively as a short-term living arrangement for a child whose ultimate reunion with its natural parents is intended. But when, as is often the case, it is used to provide a temporary (but long-term) home for a child eligible for adoption, it is a failure and in fact often operates to defeat the child's best interests.

In the last chapter, Katz looks at adoption and the role it plays in state intervention in parent-child relationships. Parental rights can be terminated by expressed consent of the parents, by implied consent (abandonment) or involuntarily without consent by court order. The present articulated goal of the state in permitting adoption (i.e., the welfare of the child) is regarded ambivalently as is reflected in concessions to both natural parents and adoptive parents. Katz concludes that if adoption is meant to serve as a means of providing adequate parental care for children whose natural parents have failed to meet community expectations, it should assume the characteristics of permanence as soon as possible. The decision to give up a child, once made, should be irrevocable and the adoption decree, once rendered, should be final. At this point, the process of state intervention should end.

- (100) • Leibsker, Donald. "Privileged Communications - Abrogation of the Physician-Patient Privilege to Protect the Battered Child." 15 De Paul Law Review, 1966.

In 1962, the American Humane Association reported that a total of 662 cases of child abuse had been reported that year, and estimated that if all cases were reported the total would reach 10,000 per year. In view of these statistics, the Children's Bureau of DHEW developed a model act to be used both as a statement of principles and to provide suggested language for state legislation on the reporting of incidents involving the physically abused child. The model act singled out medical personnel as mandated to report, with failure to do so punishable as a misdemeanor. This model has been the basis for state legislation on child abuse, and encourages reporting by granting civil immunity to certain medical personnel as long as they report in good faith.

The Illinois statute requiring the reporting of suspected child abuse cases became active in July 1965. It excludes registered nurses, as well as all non-medical personnel, on the basis that they are not qualified to make an accurate medical diagnosis. It is the opinion of the author that these others should not only be allowed to report, they should be encouraged to do so. Often, children do not come to medical attention until their symptoms become severe and complex. Also, if a parent is aware that seeking medical attention for his child will expose him to criminal prosecution, the child may never be brought to a physician. In these cases, it is the social worker, teacher, marriage counsellor, or nurse who could report and protect the abused child.

- (101) • Levine, Richard S. "Caveat Parens: A Demystification of the Child Protection System." 35 U.Pitt.L.Rev. 1, 1973

Levine states he is addressing the issues of neglect and dependency, although many of his observations seem applicable to abuse cases as well. Levine is concerned with the initial interventions of child protective service agencies. The demystification he seeks involves the social workers projected imagery of friendliness and benevolence. He presents a long list of the faults of present social work efforts and foster care programs. Greater and more frequent judicial review of child protective services activities is needed along with procedural safeguards for parents, especially where so-called "voluntary" entrustment agreements are involved. Agencies should be required to show that a plan for the rehabilitation of the family unit, not solely the child, is available and has been offered before intervention is authorized. A "right to treatment" should become the quid pro quo for the state's right to intervene. Procedurally, Levine argues, a search warrant should be required to be obtained by a child welfare investigator before entry into the home; parents should be granted and informed of their Fifth Amendment privilege to refuse to answer any questions; parents should be granted the right to consult with an attorney at any stage; and they should have the right to court review of agency action.

- (102) • McKenna, James J. "A Case Study of Child Abuse: A Former Prosecutor's View." The American Criminal Law Review Vol. 12, No. 1, Summer 1974, pp. 165-178.

McKenna examines the role of the prosecutor in cases of child abuse, and illustrates with a case study in Maryland. He maintains that the presence of the prosecutor and the concomitant threat of criminal prosecution is essential in all child abuse situations, possibly in conjunction with the efforts of social service agencies.

Criminal prosecution serves the social ends of deterrence, retribution, rehabilitation, and detention. The author believes that instead of omitting the prosecutor from the decision-making process in cases of child abuse, his role should be more precisely defined to alleviate the fear of excessive discretion.

Other factors affecting a decision whether to prosecute might include the facilities available for treatment of abusive parents, financial resources available for such treatment, attitudes of the parents, character of the abuse, any previous treatment, care and protection of the child during the period of treatment or incarceration, and the possibility of court supervision.

The threat of filing criminal charges might be used to encourage parents to seek professional treatment. Cases may be placed on an inactive docket pending treatment, thus tolling the statute of limitations, and giving the prosecutor the option of activating the original charge for trial if the parent fails to obtain treatment or continues to abuse the child.

McKenna maintains that "When a child has been killed or badly injured, society cannot overlook this fact...There does not seem to be a difference between a horrible beating, or death, administered by one stranger to another, and the same act as administered by an enraged father or mother to a small child. In either case, there is a question of accountability, as well as a need for rehabilitation." In the case study, the author discusses problems of trial preparation, including initial detection of abuse, dangers of emotional overreaction by prosecutors, obtaining state's witnesses from the family and of photographic evidence of abuse, and proving criminal liability.

(103)• Newman, Charles L. "Police and Families: Factors Affecting Police Intervention." Police Chief 39(3):25-26, 28, 30, 1972.
(B)

Factors affecting police intervention in family situations are discussed. Police are called upon to deal with a wide array of family problems, most of which have reached the crisis point. Recent experimentation with training of police personnel to deal with family violence in New York City has shown that police injuries can be reduced if police are trained to deal with domestic disruption. The casualty rate among disputants can also be substantially reduced. One important function of the police in relation to families is their involvement with youth suspected of

delinquent behavior. These officers should have a well-developed understanding both of adolescents and of the phenomena of behavior. Police must also deal with cases of parental neglect of children. Although police may have very little effect on community sentiment towards criminal behavior and youthful deviant activity, they can do much by way of screening the situations and conditions in the community which are conducive to illegal behavior.

(104)• Parker, Graham E., "The Battered Child Syndrome (The Problem in the United States)," 5 Medicine, Science, and the Law, July 1965, 160-163.

The medical profession complains that mandatory reporting is an infringement on the doctor-patient privileged communications relationship. In a society where free enterprise still exists, many doctors resent the incursion of bureaucracy. According to this author, the problem seems to be one relating to the lack of a universally accepted and established child protective agency similar to the National Society for the Prevention of Cruelty to Children. Many local agencies which serve a child protective function are spending time on various areas of welfare, and have limited resources and staff for dealing with this problem.

(105)• Parnas, Raymond. "Police Discretion and Diversion of Incidence of Intrafamily Violence." Law and Contemporary Problems 36(4):539-565, 1971.
(B)

Handling of family disturbances presents a major example of the exercise of discretion by police, prosecutors, and judges in diverting cases from the criminal process. The competing elements within domestic disputes make uncertain the role of the criminal process. The usual failure of the officer to arrest the transgressor in domestic disputes reflects, at least in part, an understanding that such situations are socially distinguishable from criminal activity in general. Traditional police practice emphasizes short-term adjustment almost exclusively. Mediation and referral are the only two common police diversionary responses to the problems underlying family conflicts. Consequently, increasing the effectiveness of these techniques offers the best opportunity for preventing repetition of such incidents and thereby decreasing the involvement of police.

- (106)• Parnas, Raymond L. "Prosecutorial and Judicial Handling of Family Violence", Criminal Law Bulletin 9(9):733-769.
(B)

A considerable proportion of the incidents of family violence are diverted out of the criminal process by the police. In addition, when such cases reach the district attorney's office they are subjected to further screening with an emphasis on temporary adjustment without prosecution. In most jurisdictions, screening and diversion by the prosecutor's office occur in the context of the simple exercise of discretion by the individual prosecuting attorney. A number of jurisdictions, however, couch the discretionary process in the framework of informal hearing procedures presided over by a prosecuting attorney or by a member of a specially created unit within the district attorney's office which handles the domestic dispute caseload. An examination of several information hearing processes serves both to describe the screening and diversion format and to disclose the rationale generally followed in the handling of domestic dispute cases by the prosecutor.

- (107)• Paulsen, Monrad G. "The Legal Framework for Child Protection", 66 Columbia Law Review 679, 710-717 (1966).

It is within the existing framework of law that child abuse reporting legislation must be placed. The shocking details used to describe incidence of child abuse generate public outrage and a demand for new punitive measures--new legislation which is, in fact, unnecessary. There are a host of criminal statutes to protect children which may be applicable to some forms of child abuse and include protection against sexual aggression; but in general, beginning a prosecution is likely to mean the end of any possible chance to improve the child's home situation--imprisonment tears a child from the parent, fines deplete the family's resources, and reputation suffers from conviction in a criminal court. In some states, the legal framework for the protection of children includes the establishment of protective services. Both the statutory patterns and the powers given to these agencies vary from state to state, but the aim of all protective services is to restructure the family situation so that a child's environment may improve. Recent trends have been away from the traditional recommendation of reporting to 'an appropriate police authority' because it has been noted that the investigation of a law enforcement agency is likely to engender defensive hostility, and may make successful intervention by a child welfare worker impossible.

Legislation alone, however, does not bring about increased reporting. In areas where the reporting laws have been the most successful, there have been significant cooperative efforts on the part of newspapers, medical societies, welfare departments, and hospitals. Even here, however, reporting is not enough. Legislatures that require reporting but do not provide the means for further protection to children are neglecting those children and deluding themselves as to their adequacy.

- (108)• Paulsen, Monrad G. "Child Abuse Reporting Laws: The Shape of the Legislation." Columbia Law Review, 1967.

This article describes and analyzes existing state reporting statutes and presents some of the practical experience which has been gained under these enactments. Paulsen surveys attitudes regarding the legal problems of reporting of physicians, mandatory versus permissive reporting, and central registries. He concludes there is room for improvement in legislation that purports to provide protection for children and services to parents. Statutes should be amended to provide for exclusive reporting to a qualified social welfare system. Investigators should be given a definite set of responsibilities under the law. Paulsen feels that properly trained social workers are most expert in determining whether in a given case coercive measures of the court are required; or whether the family can be adequately served through casework or other social services. Reporting laws without accompanying preventive and rehabilitative services are inadequate for the purpose of protecting children.

- (109)• Raffalli, Henri Christian, "The Battered Child: An Overview of a Medical, Legal, and Social Problem." 16 Crime and Delinquency, 1970, 139-150.

Parents deny battery of their children either consciously as an attempt at concealment, or the battery may be psychologically repressed. Doctors are not trained to interrogate parents and have difficulty in questioning them. Further, they may be so repulsed by the idea of parental assaultiveness that they will refuse to acknowledge it, especially when the child was brought in voluntarily by the parent who would be accused of causing the injury. A complete investigation is necessary before any attempts are made to remove a child from his home, even on a temporary basis; medical personnel at present are not sufficiently aware of child abuse to have a high level of suspicion.

- (110) • Rodham, H. "Children Under the Law", Harvard Educational Review. 43:487-514, 1973.
(A)

Discusses the changing status of children under the law. A legal right is interpreted as "an enforceable claim to the possession of property or authority, as to the enjoyment of privileges or immunities," whereas moral principles and political demands are not formally recognized by law and are in fact needs and interests, but not legal rights. Usually law reflects the social consensus that children's best interests are synonymous with their parents' except in extreme cases where the state is authorized to intervene in the family situation under the doctrine of parens patriae. Little thought has been given to substantive and procedural rights of children as individuals or as a special interest group. Currently law reform is shifting toward helping children in two ways: (1) by extending to children rights legally granted to adults; and (2) by recognizing the unique needs and interests of children as legally enforceable rights. Conflict in establishing rights of children lies in our value on the doctrine of parens patriae versus our value on the importance of the nuclear family.

Recent benchmark decisions affecting children are: In re Gault, 1967, and In re Winship, 1970, which gave to children procedural rights in the juvenile courts. Brown vs. Board of Education, 1954, determined that segregated education was detrimental to the rights of children and emphasized the importance of education for children; negatively, Jefferson vs. Hackney, 1972, and San Antonio Schools vs. Rodriguez declared a lower standard of welfare benefits to AFDC recipients than to other eligible persons; and in a similar repressive vein, Wisconsin vs. Yoder, 1972, ruled that compulsory school was illegal for religious reasons of the parents not necessarily of the children.

Rodham delineates three areas of strategy for obtaining legal status for children; (1) abolish the legal status of infancy or minority and reverse the presumption of incompetence; (2) all procedural rights granted to adults should also be granted to children; and (3) the presumption of identity of interests between parents and their children should be rejected whenever the child has interests demonstrably independent of those of his parents.

CONTINUED

1 OF 3

- (110) • Rodham, H. "Children Under the Law", Harvard Educational Review. 43:487-514, 1973.
(A)

Discusses the changing status of children under the law. A legal right is interpreted as "an enforceable claim to the possession of property or authority, as to the enjoyment of privileges or immunities," whereas moral principles and political demands are not formally recognized by law and are in fact needs and interests, but not legal rights. Usually law reflects the social consensus that children's best interests are synonymous with their parents' except in extreme cases where the state is authorized to intervene in the family situation under the doctrine of parens patriae. Little thought has been given to substantive and procedural rights of children as individuals or as a special interest group. Currently law reform is shifting toward helping children in two ways: (1) by extending to children rights legally granted to adults; and (2) by recognizing the unique needs and interests of children as legally enforceable rights. Conflict in establishing rights of children lies in our value on the doctrine of parens patriae versus our value on the importance of the nuclear family.

Recent benchmark decisions affecting children are: In re Gault, 1967, and In re Winship, 1970, which gave to children procedural rights in the juvenile courts. Brown vs. Board of Education, 1954, determined that segregated education was detrimental to the rights of children and emphasized the importance of education for children; negatively, Jefferson vs. Hacknay, 1972, and San Antonio Schools vs. Rodriguez declared a lower standard of welfare benefits to AFDC recipients than to other eligible persons; and in a similar repressive vein, Wisconsin vs. Yoder, 1972, ruled that compulsory school was illegal for religious reasons of the parents not necessarily of the children.

Rodham delineates three areas of strategy for obtaining legal status for children; (1) abolish the legal status of infancy or minority and reverse the presumption of incompetence; (2) all procedural rights granted to adults should also be granted to children; and (3) the presumption of identity of interests between parents and their children should be rejected whenever the child has interests demonstrably independent of those of his parents.

- (111) • Smith, Jack L. "New York's Child Abuse Laws: Inadequacies in the Present Statutory Structure." 55 Cornell Law Review, 1970, pp. 298-305.

The author examines the problems of coexistence of two statutory laws: Article Three of the Family Court Act (1962) and Article Ten of the same act enacted in 1969. Essentially, Article Three is a neglect proceeding aimed at protecting children who receive inadequate parental care and empowers the family court to dispose of the case in several ways. Article Ten is more limited in scope in that its stated purpose is to protect children who have suffered physical abuse. They differ procedurally in that under neglect proceedings (Art. 3) the child is represented by a law guardian appointed by the court, whereas under Art. 10 proceedings, the abused child is represented by a police attorney or assistant district attorney. Another difference lies in the degree of flexibility allowed the judge once the allegations in the petition have been established. Under Art. 3, there is a wide range of alternatives ranging from suspending judgment to removing and placing the child. Under Art. 10, if abuse is established the judge must order removal and placement of the child.

There remains three areas of doubt regarding coexistence of the statutes. First, it is not clear that the coverage of Art. 3 is altered by Art. 10. The result is that the powers and processes of the two proceedings are mutually exclusive and the problem of the borderline case is raised. Secondly, whereas Art. 3 provides comprehensive coverage for temporary removal, Art. 10 is conspicuously devoid of any such coverage, the result being a serious gap in the protection that Art. 10 purports to offer. The third area in doubt arising from coexistence concerns the disposition of the case. Mandatory removal under Art. 10 if abuse is found usurps the usual discretionary power of the judge.

In the final analysis, the author advocates that judges will ignore the statutory dichotomy and integrate the two articles into an efficient child protective system. Integration by judicial interpretation necessarily proceeds on a case by case basis. In the interim there must be more effective coordination of Articles 3 and 10 and until there is such coordination, they remain less than a complete solution to the problem.

- (112) • Sussman and Cohen, Model Child Abuse and Neglect Reporting Law, Juvenile Justice Standards Project, January 1975. (Draft Manuscript)

The model act contains fifteen sections, many of which are offered along with several alternatives. Briefly, the act covers who reports to whom, how reports are to be made and acted upon, emergency temporary removal procedures, the organization of local and state-wide protective services agencies, and the role of a central register. Following is a summary of each section.

Section 1. Purpose

To promote health and welfare of children by encouraging reporting of suspected abuse and neglect in a manner which assures services to children and families to protect children and promote their well-being in the home whenever possible.

Alternative 1. Expands reporting to all forms of abuse and neglect including "potentially harmful situations."

Alternative 2. No model act will be proposed until primary issues such as the quality of services and willingness of government to respond meaningfully are resolved.

Section 2. Definitions

An abused child is a person under 18 years of age who is suffering serious harm or sexual molestation caused by those responsible for his care or with temporary or permanent control.

A neglected child is a person under 18 whose physical or mental condition is seriously impaired as a result of persons responsible for his care failing to provide adequate food, shelter, clothing, physical protection, or medical care.

Alternative 1. Harm suffered need not be "serious" to constitute abuse or neglect.

Alternative 2. A child shall be considered abused or neglected if seriously "threatened" with harm.

Alternative 3. Abuse shall include serious "mental" as well as physical harm.

Section 3. Persons Required to Report, Permitted to Report.

Any physician, nurse, dentist, optometrist, medical examiner or coroner, medical or mental health professional, Christian Science Practitioner, religious healer, school teacher, other pupil personnel, social or public assistance worker, child-care worker in day-care center or child-caring institution, police or law enforcement officer having reasonable cause to suspect abuse are mandated to report. Any other person may report either abuse or neglect.

Alternative 1. Persons mandated to report abuse shall report neglect as well.

Alternative 2. Mandated persons who are staff members of medical institutions, schools or other agencies shall notify the person in charge who shall then become responsible for making the report.

Alternative 3. Mandated reporters shall report if they have "probable" rather than "reasonable" cause.

Alternative 4. Christian Science practitioners or religious healers shall not be required to report.

Section 4. Report to Whom

Reports are to be made to State Department of Social Services (D.S.S.).

Alternative 1. Reports to be made to independent local child protective agency (C.P.A.).

Section 5. Method of Reporting

By telephone to D.S.S. via single state-wide toll-free number.

Alternative 1. Written reports may be requested or required by D.S.S. as well.

Alternative 2. In large metropolitan areas, a city-wide telephone service will be maintained as well.

Section 6. Emergency Temporary Protective Custody

Only police officers and physicians can do so without parental consent if there is reasonable cause to suspect an imminent danger to the child's life. Immediate notice to be given to parent and

D.S.S. A petition shall be filed on or before next working day; child to be held in hospital or other medical or child protective setting.

Alternative 1. Includes substantial threat of future harm to the life or health of the child.

Alternative 2. Includes "seriously neglected" or abandoned children.

Alternative 3. Social workers also authorized to take custody in emergency.

Alternative 4. Person effectuating removal has choice to return child or file petition on or before next working day.

Section 7. Immunity from Liability

Any person, acting in good faith, is immune from both civil and criminal liability.

Section 8. Penalty for Failure to Report

Knowing failure to report child abuse by mandated person constitutes a misdemeanor.

Alternative 1. If neglect is also required to be reported, knowing failure to report neglect is also subject to penalty.

Alternative 2. If institutions or heads of institutions are required to report, penalty will attach to the person or "institution."

Alternative 3. Adds civil liability for damages proximately caused by failure to report.

Section 9. Abrogation of Privileged Communications

All except attorney-client are abrogated. Privilege shall not constitute grounds for failure to report or exclusion of evidence.

Section 10. Duties of State Department of Social Services; Creation of Local Child Protective Agencies

D.S.S. shall establish or designate local C.P.A. Upon receipt of oral reports, D.S.S. shall forward abuse reports immediately to local C.P.A. and to Central Register.

Section 11. Duties of the Local C.P.A.

C.P.A. shall be adequately staffed with persons trained in investigation and provision of services; shall commence investigation within 24 hours; "Indicated" or "Unfounded" findings to be made within 60 days; "Indicated" findings to be based on preponderance of evidence and to include description of services provided, those responsible for child's care, and all relevant dispositional information. Copies of findings in abuse shall be sent to Central Register; C.P.S.A. responsible for directing or coordinating services shall actively seek cooperation of all institutions, groups and programs concerned with child protection.

Alternative 1. Findings of neglect also go to Central Register.

Alternative 2. Investigation shall be made by police or other officials and not by C.P.A.

Section 12. Central Register of Child Abuse

The D.S.S. shall maintain a central register of all reports of child abuse in one of three categories: Suspected, Unfounded, or Indicated. All initial reports are Suspected, shall be kept only 60 days, and then shall be entered as Unfounded or Indicated. Indicated reports shall be maintained only when accompanied by additional information required by Section 11. If after 60 days no finding has been made, reports shall be classified "Unfounded for want of an investigation." Names, addresses, and other identifications in "Unfounded" reports shall be expunged immediately, in "Indicated" reports after 7 years.

Alternative 1. "Neglect" reports to be kept by Central Register as well.

Alternative 2. No Central Register.

Alternative 3. Reports not investigated within 60 days shall not be converted into "Unfounded."

Alternative 4. Indicated reports to be expunged only if no further reports received within 7 years or when child reaches 18.

Alternative 5. Rather than expunging identifying information, all appropriate reports shall be destroyed in their entirety.

Alternative 6. Large metropolitan areas shall maintain Central Registers as well.

Section 13. Confidentiality of Reports and Records

All reports are confidential. Unauthorized dissemination shall be a misdemeanor. Authorized persons include staff of D.S.S. and local C.P.A. persons who are subjects of reports; civil courts conducting abuse or neglect proceedings; bona fide researchers with D.S.S. written permission provided no identifying information is revealed. All persons who are subjects of a report shall be notified of the fact, of the finding of the investigation, whether his name is expunged from register or not, of his right to inspect and challenge the report. Only identifying information of the reporter shall be withheld.

Alternative 1. Central Register reports available to examining physicians as well.

Alternative 2. Subjects of reports have right to petition and have hearing before D.S.S. to have reports expunged from Central Register and all other D.S.S. files.

Alternative 3. Unauthorized dissemination shall make person liable for civil damage proximately caused as well as being a misdemeanor.

Section 14. Information, Training and Publicity

The D.S.S. and local S.P.A. shall on a continuing basis inform mandated reporters and the public of the nature, problem and extent of abuse and neglect. Reporters shall also be informed of their duties, options, and responsibilities. The public shall be informed of services available to children and families. The toll-free 24-hour statewide telephone number for reporting shall be actively publicized on a continuing basis. D.S.S. and local C.P.A.'s, on a continuing basis, shall conduct training programs for staff.

Section 15. Legal Representation

The child shall have legal counsel at public expense who shall not be same counsel for the alleged abusing or neglecting parent, nor for any governmental or social agency involved. Parents, guardians, or other persons subject to any abuse or neglect proceeding shall be entitled to counsel, at public expense, if unable to afford private counsel.

- (113) • Tamilia, Patrick R. "Neglect Proceedings and the Conflict Between Law and Social Work", Duquesne Law Review, Vol. 9:579, 1971.
(A)

This article traces the historical lack of rights of children from Roman law through the 20th century, which "might well be considered the age when children acquired the right to exist." The greatest changes in child welfare have occurred in the past 100 years, paralleling metropolitan urbanization and the consequent needs of the small, nuclear urban family which has limited resources for dealing with internal problems.

The article discusses the various services child welfare agencies provide - protective, preventative, and therapeutic. The primary service offered to deprived, abused, or neglected child is found to be the foster home. The use of this expedient as a primary service is questioned. Also discussed are the legal due process ramifications of protective services (activities), criteria for determining abuse and neglect, lack of legal counsel for parents and agency, and conflicts between social workers and lawyers are explored.

- (114) • Wylegala, V.B. "Court Procedures in Neglect. Caseworker and Judge in Neglect Cases", New York: Child Welfare League of America, 1956 (Pamphlet), pp.9-16.
(A)

The juvenile or children's court is a socio-legal agency which has the power to compel its clients to accept the social rehabilitation they need. The power of the court should not be invoked until the efforts of skilled workers have produced no results and the children show definite signs of harm in their progress toward attaining full development within their capacities. Most juvenile or children's courts are permitted by the acts creating them to conduct proceedings less formally than adult courts; however, when personal rights are involved, findings must be based on competent legal evidence. New York's youth court is entirely civil; no allegation is required that neglect was willful or intentional and no criminal charge is made against the parents.

Recommendations concerning gathering and presentation of evidence by caseworkers are made: 1) to avoid hearsay evidence, the protective worker should work with the family long enough to be able to testify himself as to environmental and psychological conditions in the home via his own expert observations; 2) Competent witnesses are good, but not gossip; 3) Detail--date, time of day, specific location of bruises--are good in reporting; 4) Make statements of facts, not conclusions; 5) Reports of conversations with parents admitting their neglect are useful; 6) Don't try to repeat conversation verbatim; the opposing lawyer will strike at their credibility; 7) Avoid technical Freudian jargon; use plain, clear, concise language; 8) Be thoroughly prepared with all the true evidence that can be mustered --school records showing tardiness, poor medical records, other social agency reports on the family, etc.

AUTHORS INDEX

Annotated Bibliography on Child Abuse

<u>Author</u>	<u>Abstract Number</u>
Avon, Peter S.	(85)
Balyeat, Ralph	(46)
Barbero, G.J.	(21)(22)
Bard, Morton	(40)(86)
Barocas, Harvey A.	(87)
Bean, Shirley L.	(41)
Bennie, E.H.	(6)
Berlow, Leonard	(23)
Besharov, Douglas J.	(42)
Billingsley, Andrew	(14)(43)
Boisvert, Maurice J.	(7)
Brody, Grace F.	(8)
Brofenbrenner, Uri	(9)
Brown, John A.	(10)
Bryant, Harold D.	(44)
Burland, J. Alexis	(45)
Burt, Marvin R.	(46)
Burt, Robert A.	(88)
Caffey, John	(24)
Cameron, J.M.	(47)
Camps, F.E.	(47)
Carpenter, James W.	(89)

<u>Author</u>	<u>Abstract Number</u>
Cherry, Barbara J.	(25)
Cohen, Michael I.	(26)
Cohen, Stephan J.	(48)(49)(90)(112)
Court, Joan	(27)
Daniels, Robert	(10)
Davoren, Elizabeth	(50)
DeFrancis, Vincent	(91)(92) (69)
Delsordo, James D.	(12)
De Saix, J.	(19)
DiLissovoy, Vladimir	(11)
Donovan, Thomas J.	(93)
Ebeling, Nancy B.	(51)
Ebin, Allan J.	(28)
Elmer, Elizabeth	(29)(52)(53)
Erlanger, Howard D.	(1)
Fanshel, D.	(54)
Finberg, Lawrence	(94)
Fleek, Stephen	(55)
Fontana, Vincent J.	(13)
Frank, M.	(2)
Fraser, Brian G.	(95)(96)
Freud, Anna	(57)
Friedman, S.B.	(36)
Geiser, Robert L.	(56)

<u>Author</u>	<u>Abstract Number</u>
Gelles, Richard J.	(98)
Gil, David G.	(4)(58)(97)(98)
Giovannoni, J.M.	(14)
Goldstein, Joseph	(57)
Green, Phillip E.	(26)
Gregg, Grace S.	(29)
Gruber, Alan R.	(60)
Halliwel, R.	(60)
Haselkorn, F.	(61)
Helfer, Ray E.	(30)(62)(63)(67)(68)
Hill, Deborah	(51)
Hopkins, J.	(64)
Hyde, James N.	(73)
Jenkins, A.	(65)
Johnson, J.L.M.	(47)
Kadushin, A.	15)
Katz, Martin L.	(85)
Katz, Sanford N.	(99)
Kempe, C. Henry	(30)(31)(63)(66)(67)(69)
Kerr, Anna	(27)
Klein, Michael	(32)
Koel, B.S.	(33)
Kuby, Alma M.	(25)
Leibster, Donald	(100)

<u>Author</u>	<u>Abstract Number</u>
Levine, Richard S.	(101)
Le Masters, E.E.	(16)
Light, Richard L.	(34)
Lucht, Carroll L.	(92)
Maginnis, E.	(35)
McKenna, James J.	(102)
Meier, E.G.	(17)
Mnookin, Robert H.	(70)
Morris, M.G.	(22)
Morse, C.W.	(36)
Nagi, Saad Z.	(71)
Neuman, R.	(80)
Newberger, Eli H., M.D.	(72)(73)(74)(75)
Newman, Charles L.	(103)
Norman, E.	(65)
Owens, David J.	(5)
Parker, Graham E.	(104)
Parnas, Raymond	(105)(106)
Paulsen, Monrad	(107)(108)
Pavenstedt, E.	(18)
Pike, Enid L.	(76)
Pivchik, E.	(35)
Polansky, N.A.	(19)(20)
Polansky, N.F.	(20)

<u>Author</u>	<u>Abstract Number</u>
Pollock, Carl B.	(37)
Purvine, Margaret	(77)
Raffali, Henri Christian	(109)
Raphling, David L.	(26)
Redford, M.T.	(22)
Rochester, Dean E.	(78)
Rodham, H.	(110)
Ryan, William	(77)
Sahler, O.J.	(36)
Sanders R. Wyman	(79)
Savino, A.B.	(79)
Sclare, A.B.	(6)
Shaheen, E.	(21)
Sharlin, S.A.	(19)
Sherman, E.A.	(80)
Shinn, E.B.	(54)
Shyne, A.W.	(80)
Silver, Larry B.	(81)(82)
Smith, Jack L.	(111)
Smith N.	(35)
Solnit, Albert J.	(57)
Steele, Brandt F.	(37)
Stern, Leo	(32)(38)
Straus, Murray A.	(3)(5)

<u>Author</u>	<u>Abstract Number</u>
Sussman, Alan	(90)(112)
Tamilia, Patrick R.	(113)
Terr, Lenore C.	(83)
Wasserman, Sidney	(84)
Watson, Andrew S.	(83)
Wylegala, V.B.	(114)
Young, Leontine	(39)
Zacker, Joseph	(40)

TITLE INDEX

Annotated Bibliography on Child Abuse

<u>Title</u>	<u>Abstract Number</u>
"Abused and Neglected Children in America: A Study of Alternative Policies," <u>Harvard Educational Review</u>	(34)
"The Abused Child," <u>Today's Education</u>	(84)
"Abused Children and Community Resources," <u>International Journal of Offender Therapy</u>	(53)
<u>The Anatomy of Violence: An Empirical Examination of Sociological Theories of Aggression</u>	(1)
<u>The Battered Child</u>	(63)
"The Battered Child: An Overview of a Medical, Legal, and Social Problem," <u>Crime and Delinquency</u>	(109)
"The Battered Child and the Hospital," <u>Hospital Practice</u>	(66)
"The Battered Child in California: A Survey," <u>San Francisco Consortium</u>	(50)
"The Battered Child Rebrutalized: Ten Cases of Medical-Legal Confusion," <u>American Journal of Psychiatry</u>	(83)
"The Battered Child Syndrome," <u>American Journal of Psychiatry</u>	(6)
"The Battered Child Syndrome," <u>Journal of the American Medical Association</u>	(31)

<u>Title</u>	<u>Abstract Number</u>
"The Battered Child Syndrome," <u>Medicine, Science and the Law</u>	(47)
"The Battered Child Syndrome," <u>Nursing Times</u>	(27)
"The Battered Child Syndrome," <u>Social Casework</u>	(7)
"Battered Child Syndrome at the Los Angeles County General Hospital," <u>American Journal of the Diseases of Children</u>	(28)
"The Battered Child Syndrome (The Problem in the United States)," <u>Medicine, Science and the Law</u>	(104)
<u>Beyond the Best Interests of the Child</u>	(57)
"C.A.L.M.--A Timely Experiment in The Prevention of Child Abuse," <u>Journal of Clinical Child Psychology</u>	(76)
"A Case Study of Child Abuse: A Former Prosecutor's View," <u>The American Criminal Law Review</u>	(102)
"Caveat Parens: A Demystification of the Child Protection System," <u>University of Pittsburg Law Review</u>	(101)
"Child Abuse," <u>Connecticut Medicine</u>	(55)
<u>Child Abuse and the Central Registry</u>	(96)
"Child Abuse in Massachusetts: Incidence, Current Mechanism for Intervention, and Recommendation for Effective Control," <u>Massachusetts Physician</u>	(74)

<u>Title</u>	<u>Abstract Number</u>
<u>Child Abuse: Intervention and Treatment</u>	(51)
"Child Abuse Laws--Are They Enough?" <u>Journal of the American Medical Association</u>	(81)
<u>Child Abuse Legislation in the 1970's</u>	(92)
"Child Abuse: One Tree in the Forest," <u>Child Welfare</u>	(45)
<u>Child Abuse: Principles and Implications of Current Pediatric Practice</u>	(73)
"Child Abuse Reporting Laws: The Shape of the Legislation," <u>Columbia Law Review</u>	(108)
"Child Abuse Syndrome: The 'Gray Areas' in Establishing a Diagnosis," <u>Pediatrics</u>	(82)
"Child Care by Adolescent Parents," <u>Children Today</u>	(11)
"Child Neglect," <u>Social Work and Social Problems</u>	(17)
"Child Neglect Among the Poor: A Study of Parental Adequacy in Families of Three Ethnic Groups," <u>Child Welfare</u>	(14)
<u>Child Neglect: Understanding and Reaching the Parent</u>	(19)
<u>Child Welfare Services</u>	(15)

<u>Title</u>	<u>Abstract Number</u>
<u>Children Adrift in Foster Care</u>	(80)
"Children Under the Law," <u>Harvard Educational Review</u>	(110)
"The Child's Need for Early Recognition, Immediate Care and Protection," <u>Helping the Battered Child and His Family</u>	(30)
"Corporal Punishment in the Public Schools--Murphy v. Kerrigan," <u>Harvard Civil Rights - Civil Liberties Law Review</u>	(85)
<u>Court Procedures in Neglect: Caseworker and Judge in Neglect Cases</u>	(114)
<u>The Current Status of Child Abuse and Child Neglect in This Country--1968</u>	(20)
<u>Dollars and Sense in the Foster Care of Children: A Look at Cost Factors</u>	(54)
"Environmental Failure to Thrive: A Clinical View," <u>Journal of Pediatrics</u>	(21)
"Failure to Thrive and Fatal Injury as a Continuum," <u>American Journal of the Disadvantaged Child</u>	(33)
"Family Intervention Police Teams as a Community Health Resource," <u>The Journal of Criminal Law, Criminology and Police Science</u>	(86)
<u>Filial Deprivation and Foster Care</u>	(65)

<u>Title</u>	<u>Abstract Number</u>
"Foster Care--In Whose Best Interest?" <u>Harvard Educational Review</u>	(70)
<u>Foster Home Care in Massachusetts--A Study of Foster Children, Their Biological and Foster Parents</u>	(59)
"Hazards in Determining Child Abuse," <u>Child Welfare</u>	(52)
<u>Helping the Battered Child and His Family, "After Child Abuse Reporting Legislation - What?"</u>	(67)
<u>Helping the Battered Child and His Family, "The Consortium--A Community-Hospital Treatment Plan"</u>	(68)
<u>Helping the Battered Child and His Family, "The Status of Child Protective Services, A National Dilemma"</u>	(69)
"A Holistic Perspective on Child Abuse and Its Prevention," <u>Journal of Sociology and Social Welfare</u>	(98)
<u>The Illusion of Caring--Children in Foster Care</u>	(56)
"Infant Injuries: Accident or Abuse?" <u>Pediatrics</u>	(29)
<u>The Incidence of Child Abuse in the United States</u>	(90)
"Into and Out of: A Child Welfare Network," <u>Child Welfare</u>	(77)

<u>Title</u>	<u>Abstract Number</u>
<u>Juvenile Justice Advocacy--Practice in a Unique Court</u>	(42)
"The Legal Framework for Child Protection," <u>Columbia Law Review</u>	(107)
"The Legal Response to Child Abuse," <u>William and Mary Law Review</u>	(93)
"Low Birth Weight and the Battered Child Syndrome," <u>American Journal of Diseases of Children</u>	(32)
"Malidentification of Mother-Baby-Father Relationships Expressed in Infant Failure to Thrive," <u>The Neglected Battered Child Syndrome</u>	(22)
"The Many Faces of Violence Against Children," Testimony before the U.S. Senate Subcommittee on Child and Youth	(97)
"The Meaning of Motherhood in a Deprived Environment," <u>Crises of Family Disorganization: Programs to Soften Their Impact on Children</u>	(18)
<u>Model Child Abuse and Neglect Reporting Law</u>	(112)
<u>Mothers-at-Risk: The Role of Social Work in Prevention of Morbidity in Infants of Socially Disadvantaged Mothers</u>	(61)
"The Myth of the Battered Child Syndrome," <u>Current Medical Dialog</u>	(72)
<u>A National Survey of Attitudes of Selected Professionals Involved in the Reporting of Child Abuse and Neglect</u>	(48)

<u>Title</u>	<u>Abstract Number</u>
"Neglect Proceedings and the Conflict Between Law and Social Work," <u>Duquesne Law Review</u>	(113)
"A New System for Improving the Care of Neglected Children," <u>Child Welfare</u>	(46)
"New York's Child Abuse Laws: Inadequacies in the Present Statutory Structure," <u>Cornell Law Review</u>	(111)
"The Nurse and the Abused Child," <u>Nursing Clinics of North America</u>	(64)
"Obstacles to the Delivery of Medical Care to Children of Neglecting Parents," <u>American Journal of Public Health</u>	(25)
"The Parent-Child Dilemma in the Courts," <u>Ohio State Law Journal</u>	(89)
"The Parent-Infant Traumatic Stress Syndrome: (Caffey-Kempe Syndrome), (Battered Baby Syndrome)," <u>American Journal of Roentgenology, Radium Therapy and Nuclear Medicine</u>	(24)
"Parenthood as Crisis," <u>Sourcebook in Marriage and the Family</u>	(16)
"The Parent's Center Project: A Multi-Service Approach to the Prevention of Child Abuse," <u>Child Welfare</u>	(41)
"A Pediatrician's View of the Abused Child," <u>Child Welfare</u>	(94)

<u>Title</u>	<u>Abstract Number</u>
"Physical Abuse of Children--An Agency Study," <u>Child Welfare</u>	(44)
"Police and Families: Factors Affecting Police Intervention," <u>Police Chief</u>	(103)
"Police Discretion and Diversion of Incidence of Intrafamily Violence," <u>Law and Contemporary Problems</u>	(105)
"A Pragmatic Alternative to Current Legislative Approaches to Child Abuse," <u>The American Criminal Law Review</u>	(95)
"Prematurity as a Factor in Child Abuse," <u>Hospital Practice</u>	(38)
"Privileged Communications--Abrogation of the Physician-Patient Privilege to Protect the Battered Child," <u>De Paul Law Review</u>	(100)
"Prosecutorial and Judicial Handling of Family Violence," <u>Criminal Law Review</u>	(106)
"Protective Casework for Abused Children," <u>Children</u>	(12)
"A Psysiciatric Study of Parents Who Abuse Infants and Small Children," <u>The Battered Child</u>	(37)
"Psychological Aspects of the Maltreatment Syndrome in Childhood," <u>Journal of Pediatrics</u>	(26)
"Recognition and Rescue of the 'Battered Child,'" <u>Hospitals, Journal of the American Hospital Association</u>	(23)

<u>Title</u>	<u>Abstract Number</u>
"Reducing the Literal and Human Cost of Child Abuse: Impact of a New Hospital Management System," <u>Pediatrics</u>	(75)
"The Responsibility and Role of the Physicians," <u>The Battered Child</u>	(62)
<u>The Role of the Social Worker in a Child Protective Agency: A Cooperative Analysis</u>	(43)
<u>The Social Structure of Violence in Childhood and Approval as an Adult</u>	(5)
"A Social Worker Looks at Failure to Thrive," <u>Child Welfare</u>	(35)
"Socialization and Social Class Through Time and Space," <u>Readings in Social Psychology</u>	(9)
"Socioeconomic Differences in Stated Maternal Child-Rearing Practices and in Observed Maternal Behavior," <u>Journal of Marriage and the Family</u>	(8)
"Some Observations on Abusive Parents," <u>Child Welfare</u>	(10)
<u>Somewhere a Child is Crying: Maltreatment-- Causes and Prevention</u>	(13)
<u>The Structure and Performance of Programs on Child Abuse and Neglect</u>	(71)
<u>A Study of Child Abuse Practices and Services in Four States</u>	(49)

<u>Title</u>	<u>Abstract Number</u>
<u>Termination of Parental Rights--Balancing the Equities</u>	(91)
A three-year follow-up study of abused and neglected children, <u>American Journal of Diseases of Children</u>	(36)
Time limited work with a family at the point of being prosecuted for child neglect, <u>Case Conference</u>	(60)
<u>Toward an Integrated Theory of Intrafamily Violence</u>	(3)
"Urban Policemen: Crisis Mediators or Crisis Creators?" <u>American Journal of Orthopsychiatry</u>	(87)
<u>Violence Against Children</u>	(4)
<u>Violence and the Struggle for Existence</u>	(2)
<u>Wednesday's Children</u>	(39)
"What Can the Schools Do About Child Abuse?" <u>Today's Education</u>	(78)
"What Schools Can Do About Child Abuse," <u>American Education</u>	(58)
<u>When Parents Fail: The Law's Response to Family Breakdown</u>	(99)
"Working With Abusive Parents, Group Therapy and Home Visits," <u>American Journal of Nursing</u>	(79)

Addendum to the Annotated Bibliography

Additional References Cited

in

the Prescriptive Package

- Araon, Judith. "Intervention Between Parent and Child: A Reappraisal of the State's Role in Child Neglect and Abuse Cases", The Georgetown Law Journal, Vol. 63, No. 4, March, 1975.
- Bard, Morton. Family Crisis Intervention: From Concept to Implementation. U.S. Department of Justice, Law Enforcement Assistance Administration (N.I.L.E.C.J.), December, 1973.
- Bergman, Abraham B. A Study in the Management of Sudden Infant Death Syndrome in the United States. National Institute of Child Health and Human Development, 1972.
- Browne, Elizabeth W. Child Neglect and Dependency: A Digest of Case Law. Reno, Nevada: National Council of Juvenile Court Judges, 1973.
- Campbell, Catherine E. "The Neglected Child: His Family and His Family's Treatment Under Massachusetts Law and Practice and Their Rights Under the Due Process Clause", 4 Suffolk Law Review 631,643 (1970).
- Chaleff, Anne and Paulson, Morris J. "Parent Surrogate Roles: A Dynamic Concept in Understanding and Treating Abusive Parents", Journal of Clinical Child Psychology, Vol. II, No. 3, Fall, 1973.
- Child Welfare League of America Standards for Child Protective Services. New York: Child Welfare League of America, Revised Edition, first printing: 1973.
- Coffey, Alan R. Police Intervention into Family Crisis: The Role of Law Enforcement in Family Problems. Santa Cruz, California: Davis Publishing Company, 1974.
- Cohn, Anne Harris, Ridge, Susan Shea, and Collignon, Frederick C. "Evaluating Innovative Treatment Programs in Child Abuse and Neglect", Children Today, May-June, 1975, pp. 10-12.

DeFrancis, Vincent. "Protecting the Child Victim of Sex Crimes Committed by Adults", Federal Probation, American Humane Association, Children's Division, 1971.

A Descriptive Study of Nine Health-Based Programs in Child Abuse and Neglect. Evanston, Illinois: American Academy of Pediatrics, April, 1974.

Elmer, Elizabeth and Reinhard, John. Child Abuse: A Handbook. Rockville, Maryland: NIMH Center for Studies of Crime and Delinquency.

Draft Report of Phase I of the Family Development Study, Children's Hospital Medical Center, Boston, Massachusetts, September, 1974.

Flammang, C.J. Police and the Underprotected Child. Springfield, Illinois: Charles C. Thomas, 1970.

Friedman, Sanford B., and Holter, Joan C. "Child Abuse: Early Case Findings in the Emergency Department", Pediatrics, Vol. 42, No. 1, July, 1968.

Goodpaster, Gary S. and Angel, Karen. "Child Abuse and the Law: The California System", Hastings Law Journal 26, No. 5, March, 1975.

Grossman, Sylvia; Paulson, Morris J.; and Shapiro, Gary. "Child-Rearing Attitudes of Foster Home Mothers", Journal of Community Psychology, Vol. 2, No. 1, 11-14, January, 1974.

Hopper, Mark A. and Kline, Donald F. Child Abuse: An Integration of the Literature and Concept Analysis with Recommendations for Educational Research, Logan, Utah: Utah State University, Department of Special Education, January, 1975.

Hurt, Maure Jr. Child Abuse and Neglect: A Report on the Status of the Research; U.S. Department of HEW, OHO/OCD.

Johnson, Clara L., Ph.D. Child Abuse: State Legislation and Programs in the Southeast. Regional Institute of Social Welfare Research. Athens, Georgia: University of Georgia, August, 1973.

Katz, Sanford N., McGrath, Melga and Howe, Ruth-Arlene W. "Child Neglect Laws in America", Family Law Quarterly 9, No. 1, Spring, 1975.

Nagi, Saad Z. "Child Abuse and Neglect Programs: A National Overview," Children Today, May-June, 1975.

Pasternack, Stefan A., editor. Violence and Victims. New York: Spectrum Publications, Inc., 1975.

Paulson, Morris J., et al. "Parents of the Battered Child: A Multidisciplinary Group Therapy Approach of Life-Threatening Behavior", Life-Threatening Behavior, Vol. 4(1), Spring, 1974.

Paulson, Morris J., et al. "An MMPI Scale for Identifying 'At Risk' Abusive Parents", Journal of Clinical Child Psychology, Vol. IV, No. 1, Spring, 1975.

Paulson, Morris J. and Stone, Dorothy. "Suicidal Behavior of Latency-Aged Children", Journal of Clinical Child Psychology, Vol. III, No. 2, Summer, 1974.

Paulson, Morris J., et al. "The MMPI: A Descriptive Measure of Psychopathology in Abusive Parents", Journal of Clinical Psychology, July, 1974.

Raffali, Henri Christian. "The Battered Child -- An Overview of a Medical, Legal and Social Problem", Crime and Delinquency 16, 1970, p. 139.

Sgroi, Suzanne. "Sexual Molestation of Children", Children Today, May-June, 1975.

Soman, Shirley Camper. Let's Stop Destroying Our Children: Society's Most Pressing Problem. New York: Hawthorne Books, 1974.

Tormes, Yvonne. "Child Victims of Incest -- A Sub-Study Based on Data Produced in Research Project 'Protecting Child Victims of Sex Crimes Committed by Adults'", The American Humane Association, Children's Division.

Training Key #207. "Child Abuse", International Association of Chiefs of Police, Professional Standards Division, 1974.

Training Key #208. "Sudden Infant Death Syndrome", International Association of Chiefs of Police, Professional Standards Division, 1974.

Training Key #209. "Crisis Intervention", International Association of Chiefs of Police, Professional Standards Division, 1974.

Training Key #224. "Interviewing the Child Sex Victim", International Association of Chiefs of Police, Professional Standards Division, 1975.

Wald, Michael. "State Intervention on Behalf of 'Neglected Children: A Search for Realistic Standards'", Stanford Law Review, April, 1975.

APPENDIX II

Issues and Questions Addressed in the Prescriptive Package on Physical Child Abuse

A. Legal Framework	II - 1
B. Reporting	II - 6
C. Central Registry/Information System	II -18
D. Investigation and Verification of Child Abuse	II -28
E. Examination of the Injured Child	II -34
F. Protective Custody	II -45
G. Court Petition	II -50
H. Criminal Process	II -53
I. Civil Adjudication Process	II -57

A. Legal Framework

1.0 Purpose and Goals of State Intervention

2.0 Rights of Children and Parents

- Under what circumstances may the state limit or intrude upon parental control over their children in the interest of necessary protection?

- When few workable and realistic standards guide the exercise of law enforcement and judicial discretion, how can minorities be protected from capricious exercise of the prejudices and beliefs of the dominant sector of society?

- Where the powerlessness of social, racial, and economic minorities renders them particularly susceptible to "benevolent" state intrusion, especially child removal, how can procedural guarantees be effectuated which cover all points of entry and processing in the legal or quasi-legal system of "child saving"?

- Does the "best interests" standard actually offer any guidelines as to how legal power is to be exercised? Does this standard reflect, from the child's standpoint, a weighing and balancing of the possible positive and negative impact of actual options available to the legal system?

- Should state intervention be minimized if the state is unable or unwilling to care for the children and their families after intervention?

- Can workable review mechanisms be built into the decision-making process aimed at child protection?
- Can a child's psychological rights be safeguarded with vague enforcement guidelines?
- Do limitations on discretion in the legal process addressing children's social or psychological or physical rights tend to undermine the effectiveness of the laws themselves?
- Is the present inability of the legal system focusing on children to realize its goals more attributable to inadequate resources than to unfairness of the law and the legal system itself?
- What procedural safeguards are necessary to protect the due process rights of parents, particularly in relation to emergency, temporary, or permanent removal of the child from parental custody?
- What are the actual functions of counsel for the child or guardian ad litem, as distinct from counsel for the state agency and counsel for the parents?

3.0 Definition of Abuse

- In the legal standard giving parents the right to physically discipline a child "within the bounds of moderation and reason", if done for the welfare of the child, what constitutes "moderation and reason"? How is it determined that a parent has exceeded moderation and is civilly or criminally liable?

- To what extent is child abuse the result of extreme instances of the "normal" and widespread use of physical force in child rearing in this culture? What are the implications for prevention of abuse?
- What is the scope of social and institutional abuse of children in the United States? What are the factors which inhibit recognition of these forms of abuse?
- What constitutes "willful" abuse? What kind of investigation is necessary (and possible) to establish intent?
- Should the definition of child abuse focus on the nature and seriousness of the injury, risk to the child's safety, or the intentional or accidental nature of injuries?
- Should neglect, emotional abuse or mental injury, sexual abuse, medical abuse, etc., be included in one statutory definition of abuse and its legal consequences?
- Of what benefit is it to the child, the parent and the state to maintain a legal distinction between physical and other types of "abuse", and between "abuse" of any type and neglect?
- How can the breadth of definitions of child abuse be reconciled with the dearth of resources available as the outcome of legal intervention?

- Should non-legal or quasi-legal agencies have the authority to apply the statutory definition of abuse as a tool for coercing treatment in lieu of legal processing?

- What conditions or types of injuries constitute physical abuse? To what degrees are these conditions or types of injuries medically diagnosable, within what margin of error, and to what extent does "diagnosis" require other supporting information?

3.1 Neglect

- Should any form of neglect (e.g., failure to thrive, egregious neglect of a child under a certain age or in infancy) be considered physical child abuse?
- What reasonable distinctions could be maintained between neglect which constitutes "abuse" and neglect which constitutes some lesser form of parental dysfunction or violation of community norms?

3.2 Sexual Abuse

- In what way is the phenomenon of sexual molestation of children by their parents or caretakers similar to the phenomenon of infliction of physical injury?
- What are the effects on physical child abuse detection and treatment systems of the inclusion of the inflammatory and moralistic category of sexual abuse?

- Are the procedures necessary for handling sexual molestation and physical child abuse similar at the stages of detection, investigation, or treatment?

3.3 Emotional Abuse/Mental Injury

- What explicit standards, replicable from community to community, can be developed for identifying instances of emotional abuse or "mental injury" of children by their parents?
- What are the potentials for abuse of such state intervention in emotional abuse or mental injury?
- What measures can the state offer to ameliorate conditions of emotional abuse or "mental injury"? What is the potential for exacerbation of a disturbed parent-child relationship by public intervention?

3.4 Accusatory/Non-Accusatory

- Should the suspected perpetrator be identified in the reporting process?
- Should criminal action be initiated against a suspected perpetrator of child abuse? In any cases? In the most severe cases? In any case prior to diagnosis of the child's injuries?
- What are the effects of the possibility of criminal prosecution of child abuse on reporting of suspected incidents of abuse? What is the effect on custody and dispositional decision-making processes in civil court?

B. Reporting

- What factors are involved in the higher rates of reported incidents of child abuse among the economically deprived?
- What safeguards are possible to mitigate the potentially discriminatory factors which result in over-reporting of lower socio-economic class and racial minority children?
- What are the differences between the legal and social service agency goals in the reporting of child abuse? What are the actual consequences of such differences in goals?
- To what factors may the recent rise in child abuse reporting be attributed: increased public awareness, increased societal violence, case generation by public welfare? How do we know? What means are available to assess changes in these factors impacting on reporting rates?
- What is the impact of increased reporting on the capacity of public and private agencies to provide services to abusive families?
- What mechanisms for child abuse reporting and/or verification would diminish the potential harm of inappropriate or excessive reporting?
- Are public information and education programs to increase public awareness of child abuse, and hotlines to facilitate reporting, likely to precipitate a large increase in unfounded or malicious reports?

1.0 Form of Reporting

- What information should be collected in an initial oral report? Should identification of the reporter be required? Sought at all?
- Should a written follow-up report be required in all cases? If only in some cases? How will these be distinguished?
- Should the initial report (i.e. recording of an oral report) be retained if unfounded? If so, in what form and with what provisions for later removal?

2.0 Reporters

- What are the primary potential sources of reports? For pre-school age children? School-age children?
- Since public agency contact is much greater with lower socio-economic groups, does the class of reporters determine the persons reported?
- Is the term "reporters" in itself likely to discourage reports from persons disinclined to act as "informers"? Should the term intended to encourage identification of injured children imply legal consequences for the persons reported and legal involvement for the persons reporting?

- Will private physicians, under the ethics of their profession, be likely to accept the role of "reporters"?

2.1 Mandatory Reports

- What is known about the effectiveness of existing mandatory reporting provisions?
- If mandatory reporting provisions have not proven effective, what are the known reasons for their ineffectiveness in relation to the various classes of mandated reporters?
- Is it necessary to retain mandatory reporting provisions of state statutes pertaining to child abuse even if there is no verifiable results? For example, to signify the importance which the state attaches to reporting, especially by certain classes of professionals?
- Do penalties of any kind, which are attached to mandated reporting, actually make any difference in reporting rates? If penalties do not make any difference in reporting rates among mandated reporters, is this fact attributable to the ineffectiveness of provisions for mandating reports or to the ineffectiveness of penalties per se, or both?
- To what extent is mandated reporting perceived by designated classes of reporters, especially physicians and human service professionals, as potentially inequitable in view of

either the disproportionate reporting of poor persons and minorities or the lack of tangible treatment services, or both of these factors?

- To what extent does the statutory abrogation of professional-client privileged communication increase the reluctance among professionals to respond to mandatory reporting requirements? How do we know?

2.2 Discretionary Reporting

- In order to encourage discretionary "reporting" or self-reports, what type of system for reporting or seeking help is necessary?
- Is a legalistic orientation to the system of child abuse handling compatible with encouragement of discretionary reporting? How do we know?
- Is the possible involvement of reporters in subsequent legal proceedings compatible with a discretionary reporting system?
- Would the current propensity of overreporting or underreporting cases among different socio-economic groups be changed to any significant extent by discretionary reporting? Within a non-punitive follow-up system? While retaining a legalistic follow-up system?

- Would feed-back to and inclusion of physicians in the treatment process increase the confidence of other physicians - as well as other potential reporters such as schools - and thus tend to increase reporting?

3.0 Report Recipient(s)

- How does the choice of the primary report recipient (e.g. law enforcement versus welfare) influence the volume of reports from different classes of professionals?
- How does the channeling of reports through different entry points in the official system of handling child abuse (e.g. legal versus non-legal entry points and tracks) influence the subsequent process and outcome of child abuse case handling?
- Do various classes of professionals have different degrees of confidence in different agency report recipients which are intrinsically related to the perspectives and ethics of their professions? Are these perspectives alterable to any significant extent or are there ways of enhancing the credibility of designated report recipients or both?
- Assuming that the initial report recipient will also be the agency mandated to perform the verification/investigation, with what other agencies or individuals must that agency share the initial report? What are the benefits of

sharing the initial report? The dangers?

- Given the 24-hour presence of police in the community, their relatively sophisticated communications systems, and the public's customary reliance upon the police in family disturbances, are police essential as report recipients? If so, are dual recipients of reports an effective arrangement, with or without the police mandated to refer reports to another recipient (and vice versa)?
- Should a non-legal agency be the sole recipient of reports if the child abuse handling system is to have a non-legalistic image and design? If so, what type of agency with what authority in relation to other non-legal, quasi-legal (i.e. protective services) or legal agencies?
- Should the court, probation or the D.A.'s office serve as primary or secondary report recipients? What impact does this arrangement have on subsequent case handling?

4.0 Report Content

- What information is necessary in order to determine that a situation may in fact involve child abuse and, therefore, warrant further investigation and verification?
- What justification is there for seeking additional information? At what stage in the verification process? What limits should be set, by law or otherwise, on the type of

information sought to supplement a report and the procedure for obtaining it?

- If the information gathered in the reporting process is itself not verifiable, or used, should it be collected?

4.1 Initial Report

- Should the content of the initial report be admissible in court process? (See 8.0 below) What are the implications of this decision for the scope of content of the report?
- Should the content of the initial report vary if it is oral or written? Accepted from anonymous parties? Accepted from mandated or non-mandated reporters? Directed to different report recipients?
- Should initial reports be fed into a central registry or other type of centralized information system?

4.2 Updated Reports

- What is the purpose of updating reports?
- Should the criteria for the decision to update reports be specified?
- What limits and standards should be set on the content of and procedures for gathering information for updating reports?

- What agency should be responsible for updating reports?
- What is the distinction between report updating and investigation?
- Should updated reports be fed into a central registry or other type of centralized information system?
- Who should have access to the information contained in updated reports? For what purposes? With what limitations on use of the information?

5.0 Immunity for Reporters

- Is immunity from civil and criminal liability for mandated and non-mandated reporters a necessary precondition for increasing the volume of reporting?
- If reporting is mandated for certain classes of professions, is immunity from civil and criminal liability a necessary concomitant?
- Are there any criteria for determining what constitutes "good faith" reporting? Does a "good faith" provision of the reporting statute require promulgation of procedures and criteria for verification of the "good faith" aspect of reports? Would such procedures become unworkable as the volume of reports increases significantly?

6.0 Penalties for Failure to Report

- Do criminal penalties for failure to report result in actual increases in reporting among professionals such as physicians? How do we know?
- If penalties for failure to report are more or less ineffective in inducing increased reporting, what is the purpose of retaining such statutory provisions?
- Do such provisions reinforce the legalistic and punitive aspect of the child abuse handling system? Is this result commensurate with the preventative and treatment objectives for child abuse intervention?
- How can deliberate failure to observe and report suspected child abuse be proven?
- What effect would criminal penalties for failure to report, and the consequent narrowing of physician discretion in reporting, have upon access by lower economic groups to publicly subsidized medical care? Might legal sanctions for failure to report possibly discourage use of public hospitals and clinics by abusive parents needing medical care for their children or otherwise seeking help?
- Are penalties for failure to report a necessary concomitant of mandating reports?

7.0 Abrogation of Privileged Communication

7.1 Husband-Wife

- Since spouses may comprise one of the few sources of eye-witness accounts of child abuse, is abrogation of the husband-wife privilege necessary in order to obtain evidence necessary for criminal prosecution?
- Might compelling spouses to testify against each other contribute to family stress?
- Is a spouse likely to testify against another spouse, with or without the abrogation provision?
- Since much research indicates cooperation or at least passive compliance of both spouses in child abuse, what is the purpose of compelling testimony by one against the other?

7.2 Professional-Client

- Since the actual client of an examining physician is the child, even though retained by the parents, is abrogation of physician-client relationship necessary in order to obtain medical information?
- Is abrogation of professional-client relationships a necessary concomitant of mandated reporting (and penalties for failure to report)? Can mandated reporting work

with (or without) the abrogation provision?

- Is violation of the normally confidential nature of therapeutic relationships warranted by the desirability of "expert" opinion concerning the psychological make-up of parents suspected of abusing their children? Might examination by a court psychologist serve this purpose?
- If the information conveyed by a parent to a physician, therapist, mental health worker, social worker, etc., including possible admission of abuse, cannot legally be withheld from court, should such professionals be obligated under law to inform clients of this possibility prior to providing treatment or other services? What effects would this have on professional-client relationships?

7.3 Admissibility of Report as Evidence

- Should the initial report strictly considered be hearsay evidence?
- For the purposes of admissibility as evidence, does the reporter need to qualify as a "reliable informant"? If so, what constitutes realistic criteria and procedures for determination of the informant's reliability?
- What should be the legal status of a report, confirmed or unconfirmed as to reliability, prior to court process?

- At which hearings would the content of the initial and updated reports be admissible: emergency removal, protective custody, or adjudication and disposition in civil proceedings?

8.0 Measures to Encourage Reliability in Reports

- What are the most effective ways to educate and inform the public of the substantive and procedural aspects of child abuse reporting and treatment?
- How can self-reporting and voluntary requests for help be maximized while conducting public information campaigns to encourage reporting?
- Would restricted definitions of child abuse and restricted intervention systems, effectively communicated to the public, encourage more reporting of a more reliable nature?
- Do penalties for unfounded reporting of child abuse have any positive effects on reliability of reporting? How do we know?
- Should efforts to encourage reliable reporting of child abuse focus on physical child abuse as a priority? Should the information and education campaign be targeted at specific professional groups? If so, what are the best means?

C. Central Registry/Information System

1.0 Purpose

- What are the purposes and objectives of central registries? What types of injuries should be included?
- How great are the dangers of invasion of privacy and inadvertent stigmatization associated with central registries? How do we know? By what means, if any, can confidentiality of information stored in central registries be protected? Where have these techniques been successful?
- What are the specific utility of central registries in the diagnostic process; in the provision of services and case management; in service follow-up and monitoring; in generation of statistical information? How effective is a central registry for each of these functions? Can the same objectives be accomplished by other means involving fewer drawbacks?
- Is it possible to provide services to and follow-up on "abusive" families without resort to central registries? What are the intended and actual impacts upon individual parents and children of use of central registries? How do we know?
- What is the potential of central registries to become multi-generational tracking and monitoring systems of "problematic" families?

2.0 Location

- Which agency should maintain the central registry: police/criminal justice, public welfare/protective services, hospital, civil court? What effect will the maintaining agency have upon access to and control of the records, type of information collected, and types of use and dissemination of the information?
- Should the registry be controlled at local, county or state levels?

3.0 Source of Reports/Mean of Reporting

- Should there be a single or multiple points of entry into the central registry? That is, should there be a single agency (presumably the agency which maintains the registry) who is responsible for screening reports for completeness and accuracy?
- If the general public is expected to report, should there be a statewide, toll-free telephone system for reporting? Connected with the central registry?
- Should reports be forwarded to a central registry by public and private agencies on a routine basis in connection with casework activities?

- Should public and private agencies be required equally to report suspected child abuse cases? How would such a provision be monitored for compliance?

4.0 Scope of Reports Recorded

- Should reports collected and maintained in the central registry be limited to physical child abuse, or should they include sexual abuse, neglect, emotional abuse, and mental injury?
- What criteria should be used to limit the kinds of information, and type of situations or incidents, which are maintained in the registry?

5.0 Scope of Information in Reports

- What information is minimally necessary to fulfill the stated functions of the central registry?
- Given the unavoidable dangers of unauthorized access, or misuse of information by authorized users, what justification is there for inclusion of information beyond this minimal necessary level?

6.0 Information Included in the Central Registry

6.1 Initial, Update, and Termination Reports

- For what purposes is individual identification necessary for achieving the purposes of the central registry?

- If identification of individuals and family members is necessary, what additional personal information concerning individuals is necessary and appropriate? For what purposes?
- Is the central registry the appropriate depository for case information in the initial report; any updating information such as verification of abuse, court action, or services provided; and a termination report? What purposes are served by inclusion of such detailed case information in the central registry?

6.2 Additional Information from Other Sources

- What legitimate state interest is served by compiling in one place records and information from such diverse community agencies as police, courts, mental health agencies, public welfare agencies, schools, or other public and private service agencies?
- What dangers are present in the compilation of extensive files of personal information from such sources?
- Should law enforcement and court data on other juvenile or family matters be included in the registry?
- Should law enforcement officials have access to the composite files on families for investigative or other purposes? If so, with what limitations?

- What special provisions are necessary, for protection of confidentiality, where registries share information across jurisdictional (e.g., state) lines?

7.0 Classification of Information

- What measures are necessary to distinguish founded and unfounded reports? Should unfounded records remain in the registry in any form whatever?
- Should reports be entered into a registry before some minimal verification process has occurred?
- Should information in the central registry be classified in terms of types or levels of confidentiality? What should be the classification standards and procedures? What should be the penalties, if any, for releasing classified information?
- What agency should monitor the implementation of classification standards and procedures? How and with what type of accountability?

8.0 Modification of Information

- What provisions exist in central registries for removal of false reports or inaccurate information?

8.1 Expungement

- In view of the widespread assumption among involved professionals that abused children become abusing parents, one result of central registries may be excessive monitoring and control of abused children when they reach adulthood. Would expungement of records at majority provide adequate protection against this potential abuse of information?
- What procedures would ensure expungement of inaccurate information? Who should be authorized to initiate expungement actions?
- Since agencies tend to become proprietary about the information which they collect, how might procedures for other agencies, individuals, and the subjects themselves to initiate expungement proceedings be provided?

8.2 Sealing of Records

- If individual identifying information is included in central registries, at what point should files be considered "closed": when the child who is suspected of being abused has reached majority? when any siblings have reached majority? after a given period of time has passed without any report of additional abuse?

- It has been suggested that provisions for sealing of records at the age of majority of the subject and unsealing only under certain conditions would adequately protect persons included in central registries. In fact would these measures protect against creation of a multi-generational tracking system, subjecting children from "abusing" families to unwarranted state surveillance? Might such surveillance itself lead to the labelling of behavior as abuse which in other families would not result in state intervention?

8.3 Amendment of Information

- Which agencies and persons would have access to information maintained in a central registry for purposes of review? Which agencies and persons would be able to initiate modification of inaccurate or removal of superfluous information? Would the subject have such access and powers?
- What criteria would guide decisions on the accuracy and appropriateness of information in files? What procedures would be followed in the event of disputes concerning accuracy or inclusion, for example, between the subject and an agency providing information or between the subject and the agency maintaining the registry? What provisions would there be for appeal of a decision on inclusion of information?

9.0 Access to Information

9.1 Persons Permitted Access

9.2 Access of Subject

9.3 Means of Access

9.4 Rights of Subject to Hearings on Content of File

- Who would be permitted access to central registry files to review contents for accuracy and for appropriateness of inclusion in a state maintained file?
- What would be the means and procedures for such review?
- Who would be permitted access to central registries for use of what type of information, under what circumstances, with what controls and safeguards on use and dissemination? What specific procedures should be followed by all agencies or persons seeking access for any purpose?
- What rights should the subject of information in central registries have to access and review of the information? What are the most equitable and least problematic means of enabling the subject to exercise this right?
- Where the information on a subject is drawn from files in other agencies, what should be the right of subjects to the source files? Should the subjects' right of access

to source files be a condition of the source of information contributing information to the central registry?

- What rights should the subject of information contained in a central registry have to a hearing to challenge the retention or accuracy of the information? What should be the procedures for obtaining such a hearing? Right to counsel for the subject? Hearing procedures to be followed? Appeal procedures following the hearing?

10.0 Confidentiality of Other Records in System

10.1 Access to Records

- What agencies and individuals, under what circumstances, would have access to records maintained within each of the following agencies: child protective agency; law enforcement agency; clinics or hospitals; treatment, service, or supervisory agency; welfare; schools?
- Under what conditions would informal sharing of information among these agencies be permissible? What types of information under what circumstances?
- Under what circumstances would the following be permitted access to agency records: grand jury, state or local officials, researchers, and reporters?

10.2 Provisions for Release of Records

- What specific criteria, concerning purpose, legitimate users, and continued protection of confidentiality should govern release of records by the agencies mentioned above?

10.3 Safeguards for Use of Records

- What measures would ensure that records on suspected abusing families are used only for legitimate purposes and by persons with a legitimate involvement in the case?
- What special safeguards are necessary for a computerized central registry?

11.0 Statistical Data Collection and Analysis

- From that standpoint of public policy and monitoring of system operation, what are the most important types of data?
- What type of data is necessary to measure the efficiency and cost-effectiveness of the child abuse system, each agency component of it, impact on families and children, relative benefits of alternative service and treatment modalities, relationship between neglect and abuse, etc.?
- What agency should gather and analyze such data? What is the role of the central registry in providing such data?

- How can such data be aggregated at state and national levels for policy and program purposes?

D. Investigation and Verification of Child Abuse

1.0 Agency Responsible

- What type of community agency should have the primary responsibility for investigation of child abuse?
- Should the initial investigation and the subsequent verification processes be separated in terms of agency responsibility?
- Should the agency responsible for investigation also have a responsibility for service and treatment, with or without court action?
- Should the agency responsible for investigation also be responsible for the family's source of welfare benefits?

2.0 Time Allowed for Investigation/Verification

- What time period would allow an adequate investigation, and also be consistent with timely and expeditious handling of the child abuse case in the courts?
- What are the major constraints on rapid completion of investigation/verification of suspected child abuse cases? How might these be overcome?

- Does criminal prosecution of abuse cases increase the time required for resolution of issues before the civil court?

3.0 Scope

- Which of the following elements should be included in an investigation of suspected child abuse: witnesses; environment of the child; condition of siblings; risk to the child and to siblings of remaining in the home; circumstances and cause of injury; contacts with relatives, neighbors, playmates, school personnel, family physician, social and other agencies, etc.?
- What common elements of a police investigation are appropriate in cases of child abuse: identification of the perpetrator; interrogation/interview of parents, child, siblings, neighbors, relatives; collection of physical evidence; taking of photographs?
- How does one assess "risk to the child" in the investigation process? Criteria? What information is necessary to determine risk?
- Is it appropriate to expand an investigation into the area of neglect if initiated as a child abuse complaint? How is this decision made and by whom?

- Should the investigation process include home visits ostensibly for the purpose of helping the family? Should the parents or caretakers be forewarned that they lack any constitutional protections against self-incrimination and that the social worker is not bound by social worker-client privilege?
- Should psychiatric examinations of parents or caretakers be initiated? What are their value or use?

4.0 Procedure

- What may establish a probable cause to investigate suspected child abuse? Who qualifies as a "reliable informant"? Is a search warrant to investigate a necessary element of due process guarantees? Under what conditions may the search warrant be rendered unnecessary?

4.1 Notice

- At what points in the investigation/verification process should parents or caretakers be informed of their right against self-incrimination, and that the information they are providing investigators may be used in a court process to deprive them of custody of their child?
- Is application of the right against self-incrimination

appropriate in a civil proceeding nominally intended to be curative rather than punitive?

4.2 Search and Seizure

- Is the state's intrusion or intervention for protective purposes search in the traditional criminal law context? What criteria serve to justify the "reasonableness" of the search?
- What should be the procedure for obtaining information and evidence in a suspected case of child abuse: physical objects which may have been used to inflict injury; photographs of disorder or injury to the child; first-hand accounts of parents, children, neighbors, relatives?
- Should an investigation/verification process in connection with civil court process attempt to preserve evidence in the event that criminal prosecution is undertaken?

4.3 Interview/Interrogation

- Who should be questioned, and at what point, with what notification of the possibility of court action, in an instance of suspected child abuse?

- What kind of information should be elicited in an interview with parents, with the child, with other children, with neighbors or relatives, and with various community agency or treatment personnel?

5.0 Role of Public Agencies

5.1 Protective Services

- Is it appropriate for protective services to perform the dual role of investigation and handling services in the case?
- Are protective service workers competent to diagnose risk to the child, to perform investigations in accordance with rules of evidence for court proceedings, and to coerce parents into accepting services?

5.2 Police

- Police are trained in criminal investigation; their reactions in domestic crisis situations have been characterized as unpredictable. Can police departments throughout the country be trained in appropriate family crisis intervention? Or should police intervention in child abuse situations be discouraged, and appropriate intervention of non-law enforcement personnel be provided?

- With what other public agency might the police cooperate in responding to emergency calls? How might the need for police assistance in emergency intervention be determined and verified?

5.3 Probation

- What are the factors responsible for variation in the role of probation officers in child abuse cases? Probation officers attached to : civil court? criminal court? recipients of reports?
- In what ways do probation and protective services collaborate on investigations of suspected child abuse cases? Provision of post-dispositional treatment services?
- Customarily the probation divisions of juvenile court perform social and factual investigations for the court. Is this an appropriate role for probation in the case of suspected child abuse? Why have many probation departments abrogated that responsibility to protective service agencies?

5.4 District Attorney

- In states where child abuse is a criminal offense, in what ways does the D.A. control or influence the handling of cases in civil court?

- What factors influence the role played by the D.A. in child abuse cases, from verification to legal action?

E. Examination of the Injured Child

1.0 Roles of Intervening Agencies

1.1 Law Enforcement

- What role beyond emergency intervention (e.g. police hold) and transportation of the child should law enforcement personnel have in handling a child who may have been subjected to child abuse?
- What expertise do police have that is relevant to determination of whether child abuse has occurred? What might they gain through training (e.g., recognition of physical signs of abuse)?

1.2 Protective Services

- When protective services identifies an injured child, what procedures should be followed to expedite examination? What other activities should protective services initiate while the child is being medically examined? In relation to the parents? Other siblings?
- What training should protective services have to prepare them to diagnose signs of possible child abuse?

- What procedures should protective services follow in relation to involvement of law enforcement, probation and the court?

1.3 Hospitals/Physicians

- What types of specialized facilities and diagnostic capabilities are necessary for complete examination of suspected child abuse cases?
- What type of organization of hospital resources and personnel are optimal for child abuse examinations?
- What standards should apply to the examination process?
- Should hospitals/clinics receive special funding to develop the capability, in terms of personnel and facilities, to perform examinations of child abuse cases in accordance with specified state standards?
- What limits should be set on the activities of hospital-based units diagnosing suspected child abuse cases?
- What should be the hospital's role in the initiation of court processing of suspected child abuse cases? Should the hospital initiate the petition in appropriate cases? What criteria should be applied in the decision-making to initiate petitions?

- What type of accountability should hospitals have in handling suspected child abuse cases? To whom would they be accountable with what type of monitoring process?

1.4 Schools

- Given schools almost universal access to children aged five years and over, how may school personnel be made alert to the signs of physical child abuse in their students?
- What kind of examination should such school health personnel give a child who may have been abused before referring the child for complete examination?

1.5 Other Agencies

- What other agencies are likely to encounter possible cases of child abuse and what procedure should they follow in obtaining an examination of the child? What other type of case follow-up should they be responsible for? How can coordination of services be accomplished most efficiently and effectively?

2.0 Emergency Temporary Protective Custody

- What roles might other family members and neighbors (the family's natural social network and support system) play in providing temporary care outside the home, in an emergency situation?

2.1 Standards and Criteria

- What are the appropriate criteria for determining whether emergency removal of a child is necessary? What person or agency should have the authority to apply these criteria - police, protective services, hospitals, others?
- What should be the provisions for review of emergency removal?
- If emergency removal hearings by a court are held in a timely manner (within 24, 48, or 72 hours), how can the parents be adequately prepared and represented?

2.2 Extension of Emergency Custody

- Under what conditions and according to what criteria should emergency custody be extended?
- What person or agency should have the authority to decide when extension of emergency custody is appropriate?
- What procedures should govern review of extension decisions?
- For what maximum time period should extension of emergency protective custody be permitted?

3.0 Examination of Injuries

3.1 Injuries to be Examined

- What specific injuries qualify as child abuse? Which injuries warrant hospital examination? What training is required to recognize these injuries?
- What types of injuries require emergency medical treatment? What procedures should be followed in case of doubt?
- What type of injuries require x-rays or specialized laboratory tests to determine their existence or severity? Which of these injuries are distinguishable from visible signs?

3.2 Home Examination

- To what extent is it possible to perform a medical examination (or para-medical examination) of a child in the home? What elements would be included in such a preliminary examination? What type of training is required to perform such an examination?
- What agency should be authorized to perform such an examination at the home or place of residence of the injured child? What procedures should be followed for

parental consent? Where parents/caretakers refuse to consent?

3.3 Referral to Hospital/Clinic/Physician

- What procedure should be followed in referral to a hospital, medical clinic, or private physician?
- Who should be permitted to make such referrals? Under what specific circumstances?
- What should be the procedures for transportation of the child to a hospital? Parents/caretaker?
- What procedures should be followed where parents refuse to consent to referral of the child to a hospital?
- Which type of hospital/clinic should be used for the examination? Should each community of a certain size have a medical facility licensed to receive referrals of suspected child abuse cases? What factors determine the feasibility of this proposal?

3.4 Medical Diagnosis and Decisions

- What should be the procedures of a medical examination to determine whether physical child abuse has occurred?
- What criteria, guidelines, and standards should govern the decisions relating to whether child abuse has occurred?

How might uniformity in such decisions be fostered?

- When a medical facility has reached a decision as to the probable occurrence of non-accidental injury, what procedures should be followed in subsequent case handling? What form should the report take? What substantiation is required for legal action? What procedures should be followed in cases when the diagnosis of non-accidental injury is not sufficiently conclusive for legal action?
- What procedures should be followed where examinations related to possible abuse reveal sexual abuse, nutritional neglect, medical neglect, emotional/mental injury, etc.?

4.0 Psychiatric/Psychological Examination

4.1 Child

- Under what specified circumstances should a child who may have been abused be subjected to psychiatric/psychological examination?
- Who should be designated to perform such examination? Who should assume the cost of such examination?
- What specific elements should be included in such examinations? How will the results be interpreted and utilized?

- Should such an examination be permitted prior to legal action in the case, e.g. in the hospital-setting or as part of protective service case handling?

4.2 Parent

- Under what specified circumstances should a parent who is suspected of abusing his/her child be subjected to psychiatric/psychological examination? Does the state have the right to impose such examination against the will of the parent? What coercive pressures may be involved in seeking "voluntary" cooperation with a requested psychiatric/psychological examination?
- Who should be designated to perform such examination? Who should assume the cost of such examination?
- What specific elements should be included in such examination? How will the results be interpreted and utilized?
- Should such an examination be permitted prior to legal action in the case, e.g. in the hospital-setting or as part of protective service case handling?

5.0 Access to Information in Other Agencies

- What information should be available, to whom, at what stage in the examination process, from among such materials

as school records, medical records, public/private welfare agency or protective service records, and any data bank information regarding previous instances of unexplained injury?

- What procedural safeguards should govern obtaining, using, and disposing of such information and records from other agencies?
- What rights and procedures are available to parents during the examination process to prevent sharing of information; to check accuracy of information provided by various public and private agencies; to present additional information pertinent to their case?

6.0 Legal Rights During Examination Process

6.1 Parents

- What rights do parents have to be informed of the processes, procedures, and findings of the examination procedure? Of the purpose and possible results of the procedure?
- At what point and under what specific circumstances may the parents' rights to prohibit a medical examination of their child be abrogated?
- What provision is made for legal counsel for parents,

at what point, in the examination process? At what point should they be informed that information they provide may be used in a civil or criminal court proceeding?

6.2 Child

- What are the legal rights of the child during the examination process? If old enough to do so, does the child have the right to refuse to participate in an examination?
- How are the legal rights and interests of the child distinct from those of the parent? Should the child be represented by legal counsel or a guardian ad litem and at what point in the examination process?

7.0 Multi-Disciplinary Team

- What role should a multi-disciplinary team play in the examination process to determine whether physical child abuse has occurred?
- Should the role of the team initially be limited to a file/no file decision on legal action?
- What should be the composition of such a team? Should it include police personnel? court personnel? public

welfare/protective service personnel? a representative of the parent? other agencies?

- What are the specific functions of such a team? What specific decisions is it responsible for making? What are the specific standards and criteria on which such decisions would be based? What are the limits of the team's dispositional alternatives and authority - that is, do they comprise a court of sorts with tangible (possible adverse) consequences to the parents or child which may result from their deliberations and actions? Or are they advisory in nature and function?
- What information is available to the team in its discussions and deliberations? Is information shared informally or are there formal procedures for the obtaining and use of information from the respective agencies represented on the team and from other public and private agencies? What opportunity do the parents or the parents' representative have for review of information used by the team, its decisions and the basis for the decisions?
- Should the suspected abusing parent/caretaker have the right to be present during the team's deliberations? Should the parent/caretaker have an advocate available to them to facilitate interpretation of the process

and to enable the parent/caretaker to participate most effectively in the team process?

- What is the most effective way of establishing accountability of the team in view of its key screening role for legal action?

F. Protective Custody

1.0 Removal Criteria

- Which criteria are utilized by protective service workers in determining the necessity for removing a child to protective custody 'to assure it's life and safety' after evaluating the home situation? Is this a decision which should be left up to an individual social worker?
- How could standards for removal to protective custody best be integrated with existing community standards, between social work and law enforcement agencies? Would inter-agency planning be most effective on a community, state, or some other level?
- In non-emergency situations, a court order is necessary before a child can be removed from its home. As court orders may frequently be obtained within minutes, over the telephone, should the request for a court order come directly from the social worker, or from the agency by whom he or she is employed?

- Should removal be used coercively by social service workers when casework progress is at a standstill, or when parents are reluctant to accept services?

2.0 Removal Procedures

- Are the powers inherent in the law enforcement function adequate legal justification for the removal of children from their homes? Do the rights and responsibilities of any other agency constitute adequate authority for workers of that agency to remove children?
- Under what circumstances is a child removed to: temporary foster homes, hospital, detention facility or other public facility? How is the most appropriate temporary care facility determined, by whom?
- Should special training and procedures be instituted to make removal as little traumatic to the child as possible? Should removal standards give priority to minimizing this trauma?

3.0 Use of Detention

- Under what circumstances is use of detention necessary or desirable in removing children for protective custody?
- What publicly funded alternatives might be created to use of detention? What private resources of the family might be utilized? Of the community?

- What is the probable psychological effect on a child of placement in a detention setting? Might detention placement, in fact, be significantly detrimental in the case of very young children? At what age could a child be expected to be capable of 'handling himself' in a detention setting where the provision of 'care' would be non-existent?

4.0 Use of Hospitals

- Under what circumstances is use of a hospital necessary or desirable in removing children from their homes?
- Given the high cost of hospital placements, what alternative placements might be utilized once the necessity for medical treatment has passed?
- In instances where a child is not in need of immediate medical attention, and especially in states where the hospital or private physician has the authority to retain a child, with or without obvious injury, if abuse is suspected, should public funding be used to subsidize the cost of hospital custodial care? Might this system encourage reporting/retention of children by physicians and hospitals?

5.0 Emergency Services

- What emergency services, in addition to the removal itself, might be necessary in the event of removal of a child from its natural home? for the child? for the parents?
- How might such emergency services as medical care, home-maker services, and counselling be provided?
- Could such services be expected to reduce the rate of removal to protective custody?

6.0 Use of Foster Care

- When a child is removed from its home to a temporary placement facility, are the chances of that child's returning to its parents' care decreased by placement in foster care?
- Is the effect of foster care placement at all contingent upon the reason for placement? That is to say, once a child has been placed in foster care, does the "machinery" take over and become essentially unstoppable?

7.0 Court Hearing

- Under the present system, court hearings regarding children in protective custody are held on the next court

day, thereby usually disrupting the scheduled docket for the day. What effect does this have on the way in which court review takes place? Is the referee system of hearing cases effective in reducing this pressure on the court system?

- At what point are parents provided with legal counsel? Is counsel provided by the state if parents are indigent?
- Is the child represented by legal counsel or guardian ad litem at the protective custody hearing?

8.0 Limits on Duration of Protective Custody

- "Temporary" foster care and protective custody arrangements often become permanent removal from the natural family in the current system - without the advantages of permanent adoption of the child by foster parents. What strict criteria for placement in foster care and imposition of protective custody might limit the number of these placements?
- How might less disruptive placements, for example with relatives or neighbors, be encouraged?
- What procedural limitations on the extension of protective custody after the court hearing might be instituted? Under what circumstances could these limits be extended?

- How might adoptions by foster parents, who have often developed emotional ties with foster children, be permitted and encouraged? What is the purpose and impact of public welfare guidelines common in the current system which provide for immediate removal of a child if the foster parents attempt to adopt?

9.0 Measures to Encourage Contact between Parents and Child

- What provisions should be made for continuing parental contact with children who have been removed from the home?
- Is continuing contact to be considered a privilege, affected by such factors as the foster parents' desire for such contact, or a right to be ensured by the protective custody agency?

G. Court Petition

1.0 Purpose

- What are the purposes and objectives of initiating formal court proceedings by petition? What types of cases should be petitioned?
- Under what circumstances is it possible to protect children and provide services to "abusive" families without resort to court process?

- What are the intended and actual impacts upon individual parents and children of court proceedings? How do we know?
- What are the dangers in relying on "informal" proceedings of abuse cases? Can due process rights be adequately protected outside of formal court proceedings?
- How voluntary, from the parents point of view, are the agreements which result in informal dispositions?
- Can termination of parental rights properly be considered a punishment and a deprivation of vital interests of the parent? That is, are nominally civil proceedings capable of producing punitive results?

2.0 Who May File?

- Currently, law enforcement, hospital, protective services, and other agency personnel, as well as counsel for the county, city, or state may file care and dependency petitions in cases of suspected child abuse. Should the persons who can file petitions be limited? To which of the above persons?

3.0 Form and Content of Petition

- What is the appropriate form and content of a petition for protective custody or termination of parental rights?
- What allegations and information should be minimally included in such a petition? What information may be considered extraneous and undesirable?

4.0 Legal Sufficiency Standards

- What basic facts must be alleged to support a petition and give proper notice to the respondent of the nature of the complaint?
- Should the establishment of "probable cause" be a requirement? If so, what elements must be shown in order to establish probable cause? What facts are essential to proving the elements of probable cause?

5.0 Court of Jurisdiction

- What are the advantages of juvenile court settings for the hearing of child abuse cases? Of a family court setting? Of a multi-jurisdiction court wherein judges rotate on assignments to various kinds of civil and criminal cases?
- In juvenile/family courts, should referees be authorized to hear any or all aspects of child abuse proceedings?
- What types of support services should be available to the court? Which, if any, should be court-based?
- Where, within the overall structure of a state-court system, should the court handling child abuse cases be placed?
- What standards and criteria might be utilized to narrow the broad discretion of judges in determining whether an incident constitutes physical child abuse? In determining the appropriate disposition?

H. Criminal Process

1.0 Arrests

1.1 Criteria for Decision to Arrest

- In all jurisdictions, child abuse will come under the rubric of some criminal statute, either a specific child abuse statute or a general criminal assault or battery statute or the like. What criteria should be applied in deciding which suspected abusing parents to arrest? By the police? By the district attorney?

1.2 Procedure

- Should arrests for alleged child abuse be handled similarly or differently than for other crimes?
- After arrest, should the person suspected of abuse be photographed, fingerprinted? Should release on recognizance be made a standard procedure? What purpose would the requirement of bail serve?
- Where an arrest is to be made, should some form of voluntary surrender be offered first? For all types of abuse?

2.0 Searches Incident to Lawful Arrest

- If initial examination of reported child abuse cases is customarily performed by a non-law enforcement agency, is there a risk of loss of evidence for possible future criminal prosecution (for example, if a child dies after several days in the hospital)? How might this problem be addressed?

- If civil processing of child abuse cases is preferred, but criminal charges are still possible, what forms of evidence gathering should be permitted prior to a decision to arrest or otherwise commence criminal action?

2.1 Purpose

- What specific purpose is to be served by a criminal search incident to an arrest for child abuse? How does this purpose limit the usual scope and nature of searches incident to arrest?

2.2 Procedures

- What procedures are to be followed in a search incident to arrest? Who is to perform the search -- police, prosecutorial investigator?

3.0 Criminal Charges

3.1 Purpose

- What purposes should criminal prosecution serve in the identification of child abuse and the protection of children?
- Under what circumstances, if any, should criminal prosecution of child abuse be pursued: homicide, permanent debilitation of the child, any severe injury?
- Is there any justification for prosecution of child abuse cases in a "therapeutic" or treatment-oriented system?

- What are the limits of police and prosecutorial involvement in cases of suspected child abuse? Given that child abuse may involve a violation of criminal laws, at what point and in what kinds of cases should criminal prosecution be undertaken?

- How might police and prosecuting attorneys be persuaded to cooperate with civil handling of child abuse? What forces work for or militate against prosecution of child abuse cases? How might such factors as inflammatory publicity and public outrage be dealt with in a civil system of handling child abuse?

3.2 Grounds

- Since existing criminal laws include crimes of murder, felonious assault, simple assault and the like, what is the purpose of separate criminal child abuse statutes?
- Apart from the seriousness of the injury, what other factors if any should be considered in determining whether to file felony or misdemeanor charges?

4.0 Criminal Investigation

- At what point should criminal investigation be initiated in suspected cases of physical child abuse?
- Who should perform criminal investigations of physical child abuse?

- What should be the scope of such investigations? What procedural safeguards would be applicable to parents' rights during such investigation?

5.0 Evidence Required for Criminal Conviction

- What standard of evidence should be required for conviction for physical child abuse? Should it be a lesser standard than the criminal "beyond a reasonable doubt" standard?
- Is it necessary to establish intent in order to convict a person of criminal child abuse? What are the difficulties in establishing intent?
- What evidence received in a collateral civil proceeding should be admissible in the criminal proceeding? Should safeguards be established to allow the accused parent to testify in the civil proceeding but bar use of that testimony in the criminal proceeding?

6.0 Screening Process in Criminal Actions

6.1 Role of Coroner or Medical Examiner

6.2 Role of District Attorney

6.3 Role of Judge

- What are the roles of the following public officials in the screening of cases for prosecution as physical child abuse: coroner or medical examiner; law enforcement; district attorney; judge? Which of these officials appear to be most conservative

in recommending prosecution of child abuse cases (that is, prosecute least)? Which appear to most support prosecution? What accounts for the differences?

- When an infant-death occurs, what criteria should be applied in deciding whether to seek an autopsy? Who should decide? -- police, D.A., physician certifying death, coroner?
- What form and degree of cooperation should be established between the county/city attorney and the D.A.? In the screening process?
- If reduction of child abuse cases in the criminal system is an objective, what operational changes would promote this objective?

I. Civil Adjudication

1.0 Pre-Hearing Investigation

- Should law enforcement personnel (police) be involved in civil investigation of child abuse cases? If so, should special units be established in police departments for this purpose? What kind of training should be provided police personnel engaged in civil child abuse investigation?
- The police role and image is associated with investigation of criminal acts and their presence often is interpreted as accusatory. Can these factors be overcome so that police can

play an effective role in non-punitive handling of child abuse? How might that be done?

- Can the investigation and treatment roles of protective services agencies successfully be combined?
- Is there a conflict of interest in having protective services, which is usually a party in the dispute, perform the investigation for the court? Is there a conflict among the case-finding, case investigation, and service provision tasks performed by protective services?
- Is there a conflict when the same agency, which investigates on behalf of and recommends to the court a finding of abuse, also recommends itself as the agency to provide services upon disposition? Can protective services maintain credibility with abusing parents as their eventual "helper" when the agency is initially the accuser and/or investigator?
- What agencies other than police or public welfare/protective services might perform the pre-hearing investigation?
- What is the appropriate content, procedure and scope of the pre-hearing investigation? For what specific decisions and dispositional alternatives will what specific information be necessary? Should information pertaining to dispositional decisions be sought in the pre-hearing (pre-fact-finding) investigation? Should such information be included in the pre-hearing report submitted to the court?

- How much time will be required to complete the pre-hearing investigation? What provision for care of the child should be made in the interim?

2.0 Due Process

- At what point in the proceedings should due process rights be first explained? At what subsequent points should this be repeated?
- Given that civil child abuse proceedings affect a vital interest of the parents -- that is, care and custody of their child(ren) -- which of the following standards should be applicable to civil child abuse proceedings:

Retained/appointed legal counsel for parents; for child?

Access by state and court officials to information regarding the child and family? Access of accused to information held by state?

Extension of the right against self-incrimination to parents in the hearing?

Probable cause standards as a prerequisite to medical examination of child or parents?

Confrontation of witnesses including authors of, and contributors of information to, reports at adjudication and disposition?

"Therapeutic" grounds for non-disclosure of information?

Application of the criminal standard to the state's burden of proof ("beyond a reasonable doubt"), or the civil standard ("preponderance of evidence")?

Probable cause standards governing pretrial removal of children from the home?

Automatic review of pretrial removal of custody of children?

Court acceptance of the state's allegations that assistance to be provided or coerced is "beneficial"?

Requirement of a warrant for home visits by protective service personnel?

Requirement that less intrusive alternatives be explored and their inadequacy explained if these alternatives are rejected.

- Which of the following criminal law due process standards should be applicable to civil child abuse proceedings:

Appointment of counsel for indigent parents?

Presumption of parental innocence of abuse?

"Beyond a reasonable doubt" burden of proof?

Extension of the right against self-incrimination?

"Probable cause" requirement for pretrial physical or psychiatric examination of parents of children?

Protection against double-jeopardy?

Right to jury trial?

3.0 Legal Representation

- Do parents have a right to state-appointed and financed counsel in civil child abuse proceedings, in the event that they cannot afford to retain counsel themselves? Do children?
- What agency should be utilized to provide state-appointed counsel for indigent parents in civil child abuse proceedings: legal services agencies, legal assistance agencies, private

attorneys in some random fashion, a set roster of private attorneys appointed regularly by the court or public defenders?

- Should appointed counsel for parents and children be selected from the same agency or panel of attorneys?
- Should a guardian ad litem be appointed for the child? In place of counsel? In addition to counsel? Should the guardian ad litem be a lawyer? What is the role of the guardian ad litem?
- At what point should a right to counsel attach? For the parent? For the child?
- Might there be a tendency for parents' counsel to play a less adversary and more accommodating role if assignment to future cases is dependent upon the same judge before which a present case is being heard? What alternative system for appointment of counsel might overcome this weakness in existing systems?
- Should special training and licensing be required for lawyers who want to practice family or juvenile law, specifically in the area of parental custody and rights?

4.0 Dispositional Alternatives

- Which of the following concerns are applicable, and which take precedence, in civil court proceedings regarding permanent

and temporary custody of a child who may have been abused: rights of citizens to bear and raise children free from undue interference by the state? rights of children to certain minimal standards of care and protection? the interests of the state in ensuring well-integrated, psychologically and physically sound citizens?

- What options should be available to the court before adjudication to negotiate treatment and services to child and parents without removal of the child?
- "Voluntary" social service arrangements in child abuse cases often in reality make "non-coercive" services contingent upon the cooperative attitude of the parents. Coercion by court often is initiated at any point at which parents become "uncooperative." How might the authority of service personnel dealing with physical child abuse cases be made explicit and clearly delimited? How might the "voluntariness" of accepting services be truly protected?
- What effect does the possibility of reinjury of the child have upon court disposition of child abuse cases? How is the possibility of reinjury determined? Can the "rehabilitative potential" of a family be determined from the severity of abuse?
- If the "safe" decision for each professional in the child abuse treatment system is removal of the child from the home, how

might the often overlooked dangers of removal be mitigated in dispositional decisions?

- Should there be a specified set of services (e.g., day care, homemaker services, emergency budget, transportation, psychiatric therapy, etc.) to be provided to a family before termination of parental rights can be considered?
- What services should be mandated to be provided by the state to families in which child abuse may have occurred? How might financing of such services be ensured?
- Repeated use of continuances as a disposition by the court, with the family or parents under the supervision of social service agencies, may constitute a violation of the rights of parents, particularly if the child(ren) has/have been removed from the home. How might adequate and timely review of such continuances, with representation of the parents by counsel, be arranged? Should there be a maximum period of time during which such continuances can be in effect before the child is either returned to the home, or the parental rights of the natural parents are terminated?
- What due process procedures should apply to the dispositional phase?
- Procedurally, how should the "appropriate" disposition be determined? What facts should be required to be shown to

justify the disposition selected? What safeguards should be developed to assure that the disposition will do more good than harm?

5.0 Monitoring of Court Actions

- What minimal statistical information should be available to the public and professionals concerning care and protection, parental custody, and termination of parental rights actions brought before the court during given time periods (quarterly, annually)?
- What appeals process should be made available to parents or children aggrieved by a court's decision? What orders should be immediately reviewable? What provisions for stays of orders should be developed? What rights of appeal should be granted? Right to counsel/appointed counsel for parents and/or child? Right to free transcript?

APPENDIX III

Description of On-Site Visits

<u>Site Report No.</u>	
1. Adams County, Colorado	III-1
2. Bangor, Maine	III-2
3. Boston, Massachusetts	III-2
4. Colorado Springs, Colorado	III-3
5. Los Angeles, California	III-5
6. Nashville, Tennessee	III-7
7. Pittsfield, Massachusetts	III-8
8. San Francisco, California	III-9
9. Washington, D.C.	III-11

CONTINUED

2 OF 3

Site Report #1

Place Visited: Adams County, Colorado

Focal Agency: Family Learning Center (FLC)

The Family Learning Center (FLC), an OCD-funded project; is a division of the Adams County Department of Social Services (DSS). Originally, the project was designed to handle all child abuse intake services for DSS and refer to protective services for follow-up treatment. A multi-disciplinary team provides diagnostic review of all cases. The Center provides services (crisis nursery, day care and lay therapy) to a small number of families. Public information and training of school personnel are other project activities.

Another reason for visiting the project was its involvement with the Colorado General Hospital, site of the National Center for the Prevention and Treatment of Child Abuse and Neglect. Medical evaluation and treatment for FLC clients is provided by the hospital, and the FLC's lay therapy component has been successful enough to provide input to the National Center.

Persons and agencies visited included:

- 1) Adams County Department of Social Services, grantee of the FLC project.
- 2) Westminster Police Department - Juvenile Unit.
- 3) Assistant County Attorney and
- 4) Assistant District Attorney, both active on the multi-disciplinary child abuse review team of the FLC, serving as legal consultants.
- 5) Judge James Delaney who has been instrumental in affecting local cooperation and concern for the problem of abuse, and is a nationally known figure in this area.

Site Report #2

City Visited: Bangor Maine

Focal Agency: None

Bangor is a small, non-industrial city surrounded on all sides by rural and semi rural areas. There is no local child abuse handling system per se, nor a visible child abuse problem. Statutory reporting laws have recently been broadened in accordance with the national trend; the impact of this action at the local level remains to be seen.

Persons and agencies spoken to included:

- 1) Regional Health and Welfare (there is also a city Welfare Department which handles hard service delivery)
- 2) Regional Public Health - responsible for the area outside the city
- 3) District Court Judge
- 4) District Probation
- 5) Bangor Police Department - Juvenile Unit
- 6) Pediatrician with hospital affiliation

Site Report #3

City Visited: Boston, Massachusetts

Focal Agency: Department of Public Welfare, Protective Services Services Division
Children's Hospital Medical Center, Trauma X Team

Boston was the initial site visited, both because of its proximity and the number and variety of public and private agencies engaged in child abuse detection and treatment. Any case of suspected child abuse must by state law be reported to the Department of Public Welfare, which has a statutory obligation to provide services to such families, and thus this agency was one focus of the site visit.

Other agencies contacted included:

- 1) Boston Legal Assistance Project, which provides legal representation to parents faced with removal of their children's custody or permanent termination of parental rights.
- 2) Massachusetts Law Reform Institute, which is active in devising and lobbying for new legislation, in the juvenile area in general as well as in child abuse.
- 3) Judge Baker Guidance Center, which is performing a study of the system of child abuse detection and treatment in Boston and is in the process of setting up an OCD-funded Resource Center to offer consultation and training assistance to welfare departments in the region.
- 4) Children's Protective Service, a private agency active in the field of abused and neglected children, and which has performed contractual services with abused children for the DPW.
- 5) Massachusetts General Hospital and Boston City Hospital, both of which handle relatively large numbers of abused children. Boston City Hospital also has developed a child abuse team.
- 6) Parents and Children's Services, a private direct service agency working with cases of abuse.
- 7) Boston Juvenile Court and its probation unit, where all neglect and dependency petitions from the Boston area are heard and the probation department handles court processing of such petitions, coordinates services at disposition, and may serve a case management function.
- 8) Boston Police Department, which has devised a training manual and film in the area of child abuse, in cooperation with a psychologist from Boston University.

Site Report #4

City Visited: Colorado Springs, Colorado

Focal Agency: District Attorney's Office

Colorado Springs was selected for a site visit for the following reasons: 1) a very high number of reported child abuse cases

(supposedly one of the highest in the nation); 2) active prosecution of child abuse by the District Attorney's office; and 3) Ft. Carson, which recently received a co-grant with the Colorado Springs Police Department (from DHEW) for an innovative Combined Community Family Stress Center.

The high number of reported child abuse cases has been attributed to extensive public education and awareness campaigns, and not necessarily to an increase in actual abuse.

Agencies visited in Colorado Springs included:

- 1) Police, who are the designated report recipients. The police department has a juvenile division that is called in to investigate the report.
- 2) Department of Social Services, Child Protective Services Division, who receive the reports from the police and who also receive reports directly via a 24-hour child abuse phone (relayed to workers via a beeper system). Social Services also has a Prevention Unit which works with parents on a voluntary basis.
- 3) District Attorney's Office - Child Abuse Team, consisting of two lawyers and two investigators who serve as consultants to the local agencies. The D.A.'s office makes the final decision in criminal prosecution (about 5% of reported cases are prosecuted).
- 4) Public Defender, who is state financed, and defends cases when the D.A. is filing criminal charges.
- 5) St. Francis Hospital, which hosts child abuse review boards in suspected abuse cases, including a doctor, social services, law enforcement, hospital social worker, and a hospital administrator. The board decides on: a) filing a petition; b) the need for further investigation; c) the need for severing of parental rights; and d) the need for homemaker services or parental skill training.
- 6) School System, which is not a major reporter of suspected child abuse.
- 7) Fort Carson, where a Behavior Services Section (part of the HEW grant) has been established in the Provost Marshall's office to deal with the problem of child abuse on the base. The base hospital is active in identifying possible cases of abuse and devising treatment plans.

Site Report #5

City Visited: Los Angeles, California
Focal Agency: Abused and Battered Child Unit, Los Angeles Police Department (L.A.P.D.)

Los Angeles was selected for a site visit because of 1) the large role, under state law and local practices, played by law enforcement in the handling of child abuse, and 2) the specialized child abuse unit with the L.A.P.D.

The Abused and Battered Child Unit was established in 1974 in response to the increase in child abuse, and perceived problems in handling of such cases (e.g., lack of police training, deficiencies in investigation, lack of coordination of community agencies and services).

All cases of physical or sexual abuse committed by a parent or guardian against a child are processed by the Unit. There are 14 officers assigned to the Unit, ten of whom are field investigators who work in man/woman teams assigned to a specific geographic area composed of two or more of the L.A.P.D.'s seventeen divisions. The unit averages about 700 incoming calls a week, including simple requests for information or advice, and approximately 100 cases per month requiring investigation. Sargeant Jackie Howell, officer in charge, is a specialist in child abuse and neglect cases.

Other agencies visited included:

- 1) Meeting with representatives from the District Attorney's office, City Attorney's office, and County Counsel. If the police suspect abuse, it is filed as a felony with the D.A., who reviews the case and, based on sufficiency of evidence, will either prosecute as a felony, or refer it to the City Attorney to be filed as a misdemeanor. (In cities within the L.A. county having no city attorney, the D.A. files on both felonies and misdemeanors.) The county counsel represents the state in custody proceedings and advises in neglect and dependency hearings.
- 2) Department of Public Social Services (D.P.S.S.), which reviews cases for investigation from the police if they don't file criminal charges. D.P.S.S., in Los Angeles, does the investigation for juvenile court.

- 3) McLaren Hall (Intake and Detention Control), is the juvenile detention facility, acts as the intake unit for D.P.S.S., and files the detaining petition (within 48 hours) for the L.A.P.D. When a child is removed, he will remain here until a decision is reached at the detention hearing regarding extension of protective custody.
- 4) Children's Hospital, where the team concept is used in evaluating suspected abuse cases. Dr. James Kent is directing a research project in which the control group, consisting of cases going through the hospital and system with no intervention, is being compared to other cases provided services by the hospital.
- 5) Dr. Morris Paulsen, Center for Health Services, UCLA. The Child Trauma Unit, in operation since 1970, provides group and individual therapy and short-term hospitalization to abusing parents. Under a developmental grant for child abuse intervention, three groups receiving different treatment and services will be monitored for rates of recidivism (repeated abuse) and changes in various test, therapy ratings, and developmental examinations.
- 6) Parents Anonymous, whose approach as a self-help organization is teaching parents to help themselves through talking with other abusive or potentially abusive parents.
- 7) Martin Luther King Hospital cooperates with the Abused Child Unit of the L.A.P.D. in identification of public cases of abuse and referral to D.P.S.S. The hospital's preventive efforts center around identification of "high risk" infants in the hospital and of mothers with multiple problems.
- 8) Drew Postgraduate Medical School, currently developing a treatment center for children and parents designed to maintain contact between family members during the course of treatment. The School is associated with Martin Luther Kind Hospital.
- 9) Mid-Valley Olive View Hospital serves as a child abuse referral center of physicians, hospitals, and other agencies of the Mid-Valley area of Los Angeles.

Site Report #6

City Visited: Nashville, Tennessee

Focal Agency: Urban Observatory

Nashville was selected for a site visit because of its Comprehensive Emergency Services (C.E.S.) system, a part of the Department of Public Welfare, Protective Services Section. C.E.S. provides 24-hour emergency services to families in need of social services.* By providing a court protective service worker/C.E.S. worker team that can respond at any time to child abuse reports, and that has the legal authority of the court plus the ability to provide support services (i.e., homemakers, caretakers, foster homes), police intervention and inappropriate removal of children and filing of petitions decreased significantly.

The Urban Observatory is presently involved in providing technical assistance to other cities in the U.S. which are interested in establishing C.E.S. systems.

While in Nashville, other agencies visited included:

- 1) Court Protective Service Unit which is involved in the investigation of child abuse cases with C.E.S.
- 2) Tennessee Department of Human Services/C.E.S., which is, in Nashville, the designated child abuse report recipient.
- 3) Youth Guidance Division of the Police Department, who receive reports and refer them to C.E.S., or may respond to a call and gather evidence for possible criminal prosecution.
- 4) Vanderbilt Hospital Child Abuse Team, involved in research in preventing child abuse, and in child abuse training programs.
- 5) Nashville General Hospital, Emergency Room, one of the major recipients of child abuse cases in the metropolitan area.
- 6) Metro Department of Education, Social Services Department, which is the unit within the school system for dealing with suspected child abuse cases.

*Prior to the establishment of C.E.S., law enforcement was the only 24-hour service available to the community, so that children in crisis had to be brought into the legal system in order to receive services. Some of the services provided by the C.E.S. center include caretakers; homemakers (no longer available on a 24-hour basis); emergency foster homes and shelters, both for families and adolescents; outreach and follow-up. Access to intake through a toll-free, 24-hour 'hot-line' telephone; and immediate response is provided by a C.E.S. worker in conjunction with a court worker, also on call.

Site Report #7

City Visited: Pittsfield, Massachusetts

Focal Agency: Child Protective Services Division of the State
Department of Public Welfare

Pittsfield is a small city (population 58,000) which serves as the industrial, governmental, and social service center for Western Massachusetts. It was of particular interest both because it serves a larger rural area, and because the death of a child within the last year had focused the community attention on the problem of child abuse and public response to child abuse. The Massachusetts Department of Public Welfare (DPW) had contracted with a private agency, Child Protective Services (a division of the Massachusetts Society for the Prevention of Cruelty to Children), to receive, evaluate, and act upon reports of suspected child abuse.

Public debate surrounding the fatal incident appears to have focused on the issue of public accountability by a private voluntary agency which assumes contractual responsibility for child abuse case handling. After the death of the child, and substantial publicity surrounding the death, the Protective Services Division of the DPW resumed primary responsibility for receiving reports, with Child Protective Services still providing services to selected families in the area.

In addition to Child Protective Services and Department of Public Welfare, agencies interviewed included:

- 1) Pittsfield Police Department, which investigates suspected child abuse cases for the possibility of criminal prosecution, and which cooperates with social service agencies in identification, intervention, and referral of family conflict/child abuse cases.
- 2) Pittsfield District Court, which hears both custody and misdemeanor child abuse cases.
- 3) Probate Court, which hears custody cases only in the event that one parent is contesting custody of the child by the other.
- 4) Public Defender, who may represent parents either in custody hearings or in defense against criminal charges.

5) Private Pediatrician, who treats many Medicaid recipients, thus performing the function often assumed by public hospitals in larger urban areas.

6) Berkshire Medical Center, Berkshire Rehabilitation Center, St. Lukes Hospital which have no organized programs as yet for detection or treatment of child abuse.

7) Pittsfield School System, in which school policy is that counselors, teachers, or nurses in any case of suspicious injuries confer with an administrator and report to the director of pupil personnel services, who assigns a person to investigate the situation and, if the suspicion is substantiated, it is reported to the Department of Public Welfare. (Very few such reports occur.)

8) Pittsfield Health Department, which provides twelve public health nurses to serve the 12,500 students of the Pittsfield Public School system and, in connection with home visits, may report suspicions of child abuse to the Department of Public Welfare.

Site Visit #8

City Visited: San Francisco

Focal Agencies: Child Abuse Coordinating Council

Children's Trauma Center, Oakland
Children's Hospital, Oakland, California

The purpose of the San Francisco site visit was to examine the child abuse handling process and community agency involvement in a second major metropolitan area in California. The Child Abuse Coordinating Council arranged most of the contacts with agencies. Agencies visited included:

- 1) The Children's Trauma Center, Oakland Children's Hospital, which is fully described in Chapter A.4. of Part II.
- 2) Extended Family Center, San Francisco, an OCD funded research and demonstration project, established as a treatment center for abused children and their parents.

Site Report #9

Services provided by the project include day care, therapeutic counseling of parents, provision of emergency budgets and other hard services, and advocacy of client families. Beginning this year, the project will be funded by the California Criminal Justice Council.

- 3) Juvenile justice system agencies. To compare the Los Angeles Police Department's Child Abuse Unit with another law enforcement-oriented system in the same state, we met with the Juvenile Unit of the San Francisco Police Department, personnel from both adult and juvenile probation, a deputy district attorney assigned to juvenile court to handle child abuse and neglect cases (as council for the child), and a juvenile court judge.
- 4) Child Abuse Coordinating Council. The Chairman of the Council is a pediatrician, the Chief of Pediatrics of San Francisco General Hospital, and the grant for the Council is to the hospital. The Child Abuse Council was formed for the purpose of improving inter-agency communication in the group, which is inter-disciplinary, meets twice weekly to discuss current cases and is primarily community and protective services based. We attended a case conference and met with the project staff as well as visiting the Director at San Francisco General Hospital.
- 5) Berkeley Planning Associates, Berkeley, funded by The Health Resources Administration (HRA) to do an evaluative study of 11 OCD/SRS funded Demonstration Projects. We conferred with the Director and staff of the project about our respective experiences in assessing child abuse projects.

City Visited: Washington, D.C.

Focal Agency: Child Abuse and Safety Report
Office of the Corporation Counsel, District of
Columbia

Child Protection Center
D.C. Children's Hospital

Washington, D.C. was selected as a site because of the active child abuse identification and treatment program conducted by the child abuse team at Children's Hospital, and the cooperation between the program and the D.C. Corporation Counsel's Office which files neglect petitions in Family Court.* Currently, there is a Child Abuse and Safety Project in the Corporation Counsel's office which is attempting to coordinate all of the participants in the neglect process.

In addition to these two agencies, the following were visited:

- 1) Juvenile Justice Clinic, Georgetown Law School, which represents the child in neglect actions. Students from the Law School, under supervision of practicing attorneys, receive academic credit to provide court representation, and also are active in gathering information pertinent to developing dispositional plans for children in neglect proceedings.
- 2) Superior Court Family Division Trial Lawyers Association, which represents parents in dependency actions, without compensation, in effect as an adjunct to representing juveniles in delinquency actions, which is compensated by the court.
- 3) Criminal Trial Division, Public Defender Service for D.C., which represents parents facing criminal charges in child abuse cases. The Offender Rehabilitation Division of the Public Defender Service performs social investigation and devises dispositional plans for its clients. The Service also has substantial investigative resources at its disposal.

*Abuse cases fall into the category of neglect proceedings in Washington, D.C.

APPENDIX IV

The Nashville Comprehensive Emergency Services System

1. Overview of Tennessee Neglect Statute

The State of Tennessee, in its neglect statute, does not specifically define child abuse, but it does outline those conditions which are reportable: "any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition which is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or which on the basis of available information reasonably appears to have been caused by brutality, abuse or neglect..."

"Any person having knowledge of or called upon to render aid to any child" suffering from the above described condition is mandated to report immediately to either the Department of Welfare, the juvenile court judge, or the local law enforcement official. Reporters are immune from criminal and civil liability; failure to report is a criminal offense (misdemeanor).

A central registry is maintained by the State Department of Public Welfare; there is also a county registry in each county office of the D.P.W. The mandated recipients funnel their reports through the D.P.W. to the registry. Reports contain the name, address and age of each child, the nature of the harm reported, and the name and address of the child's caretaker. State law provides for expungement provisions, and some limitation of access. At this time, the registry in Tennessee is not really functioning;

the D.P.W. is in the process of developing a computerized system which will be very comprehensive. Procedures regarding the use of and reporting to the registry are being developed.

The agency responsible for investigation of abuse reports is the D.P.W. The court and law enforcement officials are statutorily mandated to "immediately" refer all reports to D.P.W. for the purpose of a "prompt" investigation. The scope of the investigation is outlined in the statute. It should include: a home visit; a physical and psychiatric/psychological examination of the child (or other children if necessary); an interview with the child; notation of the nature, extent and cause of any injury; identification of the person responsible; evaluation of the parents or caretaker; evaluation of the home environment; evaluation of the relationship of the child to the parent or caretaker; and collection of all other pertinent information.

If there is reasonable cause indicated, no search warrant is necessary to enter the home; if entrance is blocked by the parents, "the juvenile court can order compliance". Miranda rights are read only if criminal charges are to be filed.

The roles of law enforcement and probation are similar; if they respond to a call and arrive before the D.P.W. worker, and if they find reasonable grounds to believe a child is in immediate danger, they can remove the child (and notify D.P.W. of the removal). The D.P.W. worker must send his recommendations after the investigation to the juvenile court.

Following the investigation, if it is deemed necessary to remove the child, it can be handled informally or formally. If the parents agree to voluntarily place their child in protective custody, no petition is filed. If they refuse, an emergency order is filed (this function is performed either by court or the police; D.P.W. cannot remove a child alone). This order can be filed either with or without a petition. When removed, the child is placed either in a foster home or residential facility, or in the hospital if medical attention is necessary. Abused and neglected children cannot be placed in detention together with other categories of children (i.e. delinquent).

If the child is taken to a hospital by his parents (or anyone else), and the hospital feels that the child, regardless of whether additional medical treatment is required, is in danger, it has the statutory authority to retain custody "until the next regular week day session of the juvenile court", even against the will of the parent or caretaker.

If the child is taken into protective custody by D.P.W. on an emergency order, a petition must be filed within seven days. At that time, a hearing is held to determine: 1). whether or not to file a petition; 2). if a petition has already been filed, it may be decided to remove the child (or if he/she has already been removed, to return the child or keep him in protective custody). Legal representation is mandatory for children 14 and under, and optional for children over 14. It is optional for the parents. Both are advised of the need or right to counsel.

The Tennessee statute contains a section making it a criminal offense (misdemeanor) to "maliciously, purposefully, or knowingly, other than by accidental means, treat a child under 18 in such a manner as to inflict injury or neglect a child so as to adversely affect its health and welfare...", punishable by a fine and/or imprisonment (not more than \$1000, and not more than 11 months and 29 days).

Criminal investigation is handled by either the police or the district attorney's office. Charges can be filed by police at the time of the report if they choose, or the juvenile court judge, after hearing the civil case, can issue a bench warrant if he finds "reasonable cause to believe that a person is guilty of violating" the state statute. The process for prosecution is specified in the statute.

2). Nashville/Davidson County Comprehensive Emergency Services

2a). Problem Assessment

Comprehensive Emergency Services in Nashville/Davidson County was developed to provide after-hour services to the community. Before C.E.S., there was no agency except for the police department that had twenty-four hour capability to receive and investigate reports of abuse and neglect. Even though reports could go to the D.P.W., law enforcement or court, many were going to law enforcement because of their availability (see attached Chart A - Pre-C.E.S.). The result of this was over-reliance on removal of children and over-use of petition-filing; police

did not have the resources available to keep children in the home (and also tended to look at the abuse/neglect situation from a different philosophical perspective than the D.P.W. worker).

To alleviate this situation, C.E.S. was designed to have a twenty-four hour intake capability. Through a cooperative effort, it was decided that both court and police would immediately refer all reports to C.E.S. intake for screening and investigation. Because D.P.W. workers do not have the legal authority to remove children if necessary, the plan for C.E.S. included the teaming of a C.E.S. worker with a court worker, who could remove a child. A protective services unit in probation was designed, also with twenty-four capability. The P.S.U. worker would also have the role of advising the C.E.S. worker regarding the legal issues (i.e. gathering of evidence, advisability of filing a petition).

2b). Program Objectives

The specific program objectives of the program are as follows:

- Reduce the number of children being removed precipitously from their homes.
- Reduce the number of children who have to go through the legal system unnecessarily.
- Plan orderly placements for those children who must be placed.
- Set goals for children who come into emergency care with decisions to return to their parents or relatives made within a reasonable time (2 weeks to 1 month).
- Develop placements that more nearly meet the needs of children who must remain in care.
- Show cost effectiveness based on utilization of staff time and cost of emergency services.

2c). Operation of C.E.S.

"The procedural steps involved in this program are: (1) intake; (2) screening; (3) investigation; and (4) disposition.

Intake* - the five Emergency Service Workers operate on call on a rotating schedule with one worker being on call one day per week and one night per week as well as one weekend per month. Someone is designated to work on holidays. A monthly schedule is posted giving the name of the worker on call and back-up staff. Calls during the day are received by the intake worker (Emergency Service Worker) in the project office. From 4:30 p.m. through 8:00 a.m. calls are relayed to the worker's home through a commercial answering service. The major referral source at night is the Youth Guidance Division of the Metro Police Department.

In addition to project staff a Court worker from the Intake and Classification Unit (Protective Services Unit) is available at all hours. The Court Unit which is comprised of six workers-- either one or two workers on a given shift--operate on an eight hour shift and are 'physically' present at all times to take calls and refer them to the Emergency Service Worker on call.

Screening** - The screening process or the expediency with which calls are investigated depends upon the degree to which a case is defined as an emergency. Project personnel indicate that the

* See Chart B - Operation of C.E.S. (1)

** See Chart B - Operation of C.E.S. (2:a,b)

following types of situations have been categorically earmarked for immediate intervention: (1) reports of children left unsupervised; (2) child abuse; (3) gross neglect due to hazardous living conditions; (4) children in need of immediate planning due to severe family conflict and disorganization; and (5) family crises involving situations which might result in children going before the Court. Neglect complaints which do not fall within the above types are not investigated immediately; they are routed to the Protective Service Unit (D.P.W.) for investigation.

Investigation* - The worker on call both day and night has back-up workers who assume responsibility for intake as such action becomes necessary, e.g., when there are several concurrent calls or when the primary intake person must be in the field and unable to perform the intake function. The back-up worker relieves only until such time as the worker on call has completed her field duties and is able to resume primary responsibility for intake. Each case defined as an emergency reportedly is assessed immediately in the field by the Emergency Services Worker on call and the Protective Service Worker from the Juvenile Court. If a call is taken at Juvenile Court intake, the Court Protective Service Worker notifies the Emergency Services Worker; both workers investigate the situation by visiting the home and/or any other contacts which may aid in the assessment of the case.

* See Chart B - Operation of C.E.S. (3)

Case Disposition*- Based on the results of the investigation, the workers take the appropriate action to solve the immediate crisis and to protect the child. This may include one or more of the following:

- Where immediate placement seems indicated, they take the child into custody in accordance with the procedure for the removal of children.

(When removal is not necessary,)
- They locate the parents/substitutes and offer necessary emergency assistance to resolve the crisis enabling the family to remain intact.
- They locate reliable relatives who are willing to supervise the child until other plans can be arranged.
- An emergency homemaker is assigned to those situations where a parent and/or responsible relative is in the home but is unable to meet full parental responsibility. A caretaker may be used to supervise children initially until the homemaker is available." (1)

2d). Types of Services Provided by Twenty-Four C.E.S.

- Twenty-Four hour Emergency Intake - a service designed to utilize an answering service at night, on weekends and holidays, and to screen calls and refer emergencies to the caseworker on call.
- Emergency Caretakers - people carefully selected and trained to go into homes to provide responsible adult care and supervision for children in crisis. The primary function of the emergency caretaker is to provide care and supervision of a child in his own home at a time when supervision is lacking because parents are either temporarily absent or incapacitated.
- Emergency Homemakers** - (people) available for twenty-four hour assignments to maintain children in their own homes until the parent is able to resume their care or until it is decided that another course of action should be taken.

* See Chart B - Operation of C.E.S. (4:a,b)

** Per our site visit findings, homemakers are no longer available on a twenty-four hour basis due to fiscal problems within the D.P.W.

- Emergency Foster Family Homes - provide temporary care for children who cannot be maintained in their own home. These homes are designed to minimize the emotional shock caused by removing children from their families by providing them with a home environment as an alternative to institutional placement. When emergency placement is necessary, children are returned home or placed in other appropriate facilities as quickly as possible, preferably in two weeks and in no more than one month.
- Emergency Shelter for Families - a facility that provides temporary shelter for the entire family, rather than separating the children from their parents.
- Emergency Shelter for Adolescents - this type of emergency care can be provided by a group home or institutional type program. Older children often have particular problems and needs which cannot be dealt with by a foster family home. Frequently these children have become detached from their families, or have had little parental supervision for a long period of time, and are resentful of adults. They often have a history of being run-aways, drug users, etc. While they may be classified as pre-delinquent or have court records of past delinquency at the point they come to the attention of the emergency intake unit, it is because of neglect, abuse, or a crisis in their home, and this must be handled as such. These are children who do not need to be placed in Juvenile Detention, which will occur if other resources are not available. These youths cannot adjust to a foster family home as they cannot tolerate the closeness of a family or the supervision provided by foster parents." (2)

2e. Outcome Statistics

C.E.S. in Nashville/Davidson County was evaluated by Burt and Associates⁽³⁾ in 1974. Some of the findings are as follows.

- The number of petitions filed was reduced from 602 in 1969-1970 to 266 in 1973-74, a 56% rate of decline.
- The number of families which contained one or more children named on neglect/dependency petitions was reduced from 339 to 156 during the same period.

- The number of cases screened where a petition was not sworn out increased from 770 in 1969-1970 to 2,156 in 1973-74, an increase of 180%.
- The number of children removed from their homes and placed in some type of substitute care decreased from 353 in 1969-1970 to 174 in 1973-74.
- The number of children who were placed in the county shelter facility as a result of neglect and dependency petitions was reduced from 262 to 35.
- The number of children under age six who were institutionalized was reduced from 180 to 0 during this period.
- There was an estimated net savings of \$68,000.

CHART A -- PRE-C.E.S.

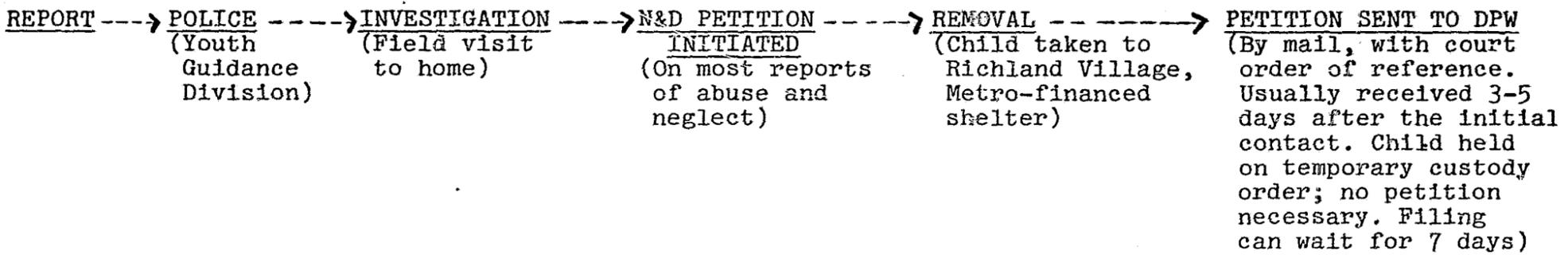
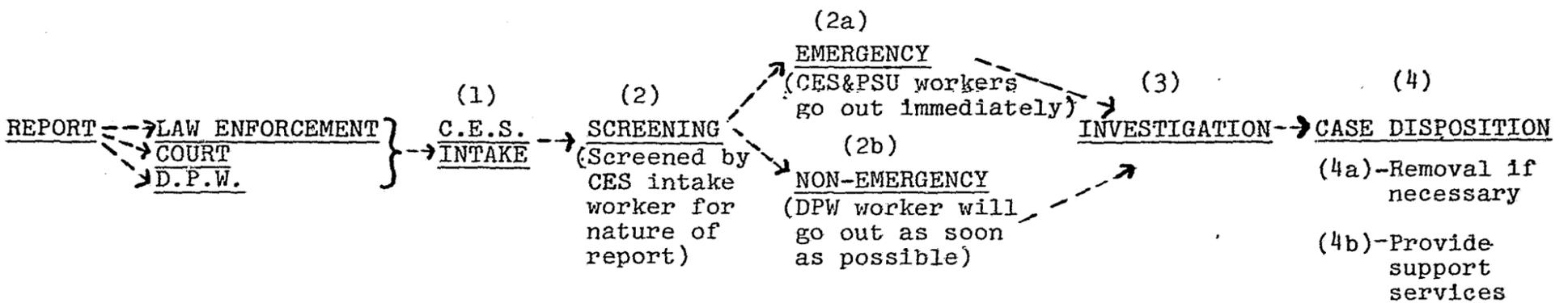


CHART B -- OPERATION OF C.E.S.



FOOTNOTES

- (1) Clara L. Johnson, Ph.D. Child Abuse: State Legislation and Programs in the Southeast (Athens, Georgia: Regional Institute of Social Welfare Research, August, 1974), pp. 52-60.
- (2) Comprehensive Emergency Services: A System Designed to Care for Children in Crisis (Nashville, Tennessee: Nashville Urban Observatory, National Center for Comprehensive Emergency Services to Children, October, 1974).
- (3) Marvin R. Burt and Ralph Balyeat. "A New System for Improving the Care of Neglected and Abused Children," Child Welfare, Vol. III, No. 3 (March, 1974), pp. 167-179.

APPENDIX V

Analysis of the American Humane Association Data Collection Form for the National Clearinghouse on Child Neglect and Abuse (NCCNA)

The National Clearinghouse on Child Neglect and Abuse (NCCNA) is a federally-funded project with the American Humane Association (AHA) to collect national neglect and abuse information. State departments of welfare (protective service divisions) participate in NCCNA voluntarily. At this time, there are approximately 25 states supplying information to the clearinghouse on a regular basis. The NCCNA utilizes a printed information form, supplied to the states, which is completed by the protective service case-worker most familiar with an individual case. This form ~~(attached)~~ was recently reduced in size and scope to two 8 1/2" by 11" pages of computer coded information. The content of the form is discussed below.

There is exhaustive personal identification information in this form, including: a local case number; an NCCNA identification number; full name of the child, parents, or parent-substitutes, other children, and other alleged perpetrators; and full address of the family and of the alleged perpetrator, if different. For each person identified in the form, the age, sex ethnicity, and role (victim, alleged perpetrator, or not involved) are identified. In addition, for each child the relationship to

the parent or parent-substitute is detailed, as is the relationship of any other alleged perpetrator to the child (e.g., grandparent, sibling, babysitter, institution staff). The marital status of the parent or parent-substitute is identified with some precision: "Legal Marriage," "Consensual Union," "Never Married," "Divorced/Separated," "Widow/Widower," "Marriage Partner Temporarily Absent," "Marriage Partner Permanently Absent," and "Unknown." According to AHA staff, the identifying information is blocked out at the Clearinghouse, but is retained by the local agency and the state central register. The NCCNA identification number can be used to link up with the state-retained report, in order to receive corrected or additional information.

The location of the social service agency completing the report form, and the identity of the caseworker also is obtained, as are the dates that the abuse report was made and the form was completed. Source of the initial report, and the mandated agency receiving the report are indicated. There is one line in which to specify the nature of the complaint. This information is provided for both established and unsubstantiated cases. The determination of case status is indicated on the form, and the remaining information is not provided for unsubstantiated cases.

Some 21 categories of abuse and neglect are presented, ranging from skull fracture to lack of supervision. The caseworker is asked to designate which of the (up to six) children identified previously were involved in each type of abuse. In addition to clearly demarcated forms of abuse such as bone fracture, burns, cuts, internal injury, etc., the form includes "Malnutrition" (distinct from "Failure to Thrive"), "Exposure to Elements", and "Locking In/Out". The form also includes broader categories defining the nature or consequences of deficient parenting such as "Emotional Neglect", "Medical Neglect", "Educational Neglect", and "Lack of Supervision". Severity of abuse/neglect is judged by type of treatment offered as well as by the consequences for the child, ranging from "No Treatment" to "Fatal." Special characteristics of each identified child are detailed, including "Premature Birth", "Mental Retardation" or "Physical Handicap", "Chronic Illness" or "Emotionally Disturbed". Education level and occupation of each parent (or parent-substitute) are provided, as well as estimated yearly income, and any source of supplemental income (AFDC, other public assistance, social security or pension).

There follows a check-off section of "Factors Present," presumably which the caseworker feels may have contributed to the abuse or neglect. These are in three categories: "Family", "Environment/

Social", and "Parental Capacity". These categories seem to reflect a variety of current hypotheses concerning the genesis of child abuse (e.g., "Parental History of Abuse as a Child," "Social Isolation," "Lack of Tolerance to Child's Disobedience and Provocation") and require a substantial degree of judgmental conclusion by the caseworker. All 19 categories of "Factors Present" essentially represent negative or derogatory judgments.

The information form concludes with a section to indicate "Disposition of Involved Children", ranging from "Child at Home" to "Termination of Parental Rights"; and a section concerning "Services Provided/Actions Taken" ranging from "No Action Taken/Awaiting Further Investigation" to "Criminal Action Taken."

The AHA views this form as a training tool as well as an information device. It is assumed that a caseworker ordinarily would have all of the required information on the form by completion of intake.

According to AHA staff, it is not anticipated that there will ever be total compliance with reporting by the states. Statistical methods will be used to project reported data to nationwide trends. Another difficulty in dealing with reports supplied by state departments of public welfare is the wide variation in the statutory language definitions of "neglect" and "abuse" among the states. Even

where there is a close approximation of a uniform definition, there remains the problem of variation among states and localities in interpretation of these definitions.

Furthermore, AHA personnel interviewed seem to be convinced that they will not receive reports of a majority of neglect and abuse cases in upper-income families, due to a "conspiracy of silence" among physicians and attorneys, and to the availability of service resources and options to families with ample income (e.g., private psychiatric services).

Dangers inherent in state and national central registers (including NCCNA) are recognized by AHA staff. These include: inadequate limits on access to the information; inclusion of unlabelled, unsubstantiated reports; the risk that reports which ostensibly have been expunged are, in fact, retained and merely labelled "expunged"; and, in general, the risk that even elaborate legal and procedural safeguards covering confidentiality of data will tend not to be observed in practice. The scope of the information in the system lends itself to misuse and to the substantial risk that identifying personal information will permit registers to be used as long-term case tracking--and labeling--devices spanning the child welfare and legal systems.

Analysis of NCCNA data currently is limited to frequency distributions and some elementary correlations e.g., marital

status of parent; age of parent perpetrator (to test the hypothesis that abuse is associated with immaturity); and type of abuse or neglect with socio-economic status. The limitations of this statistical analysis are recognized by AHA staff.

The potential risks emanating from the scope of data in the NCCNA form (and the state files which they reflect) can be assessed in relation to the information-gathering and dissemination standards and safeguards embodied in the recently-enacted Family Educational Rights and Privacy Act (Section 438 of the General Education Provisions Act). This law, first, grants the "clients" (or the parents of "clients") of an educational system an automatic right to inspect and review their education records. Educational institutions also must establish appropriate procedures for the granting of a request by parents for access, within a stated "reasonable period of time."

Further, on penalty of the withholding of federal funds, the institution must provide parents/students with the opportunity of a hearing to challenge the content of records. These hearings are designed to ensure that the records are not "inaccurate, misleading, or otherwise in violation of the privacy or other rights of students." The hearing further is designed to provide an opportunity for the "correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data" contained in the record, or to insert a written explanation by the student/parents respecting record contents.

It should be noted, however, that this Act allows release of personal identification ("directory") information, which would be entirely inappropriate in the case of a child abuse records. In addition, exemptions from provisions of the act are granted to records maintained individually by agency personnel and shared with no one except a substitute; records maintained separately for law enforcement purposes; records concerning agency employees; and records maintained by professionals concerning provision of treatment.

Information can be released to persons other than those specified in the act only with the written consent of the student/parent; upon judicial order or pursuant to a subpoena; or for purposes of audit, evaluation, and enforcement of Federal legal standards. A written record of access is maintained indicating the individuals, agencies, or organizations (with the exception of the group of entities who have general access to the records) which have requested or obtained access to a student's records, indicating also the specific legitimate interest which the person, agency, or organization has in obtaining the information. The rights accorded parents by the Act -- to review, consent, challenge, etc. -- are transferred to the subject of the information file when that subject reaches age 18. Further, the agency is constrained to inform parents and students of the rights accorded them by the Act, on penalty of losing federal funding.

END