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Incest and drug-related child abuse—systematic neglect by the medical and legal professions

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In October 1972, the Select Committee on Child Abuse of the New York State Assembly released its first report entitled, *The Children of Addicts: Unrecognized and Unprotected.*¹ This report recorded atrocities experienced by the unwilling victims of drug abuse: the fetus in utero without prenatal care; the premature, low-birth-weight newborn in withdrawal; the helpless neonate released unsupervised to the home of an irresponsible, inadequate, often hostile parent; and the infant and preschooler, abused and neglected not only by his parents but by a multitude of social agencies. If they live, these unfortunate

AUTHORS' NOTE: This research was supported in part by N.I.D.A. Grant: H81 DA 01798-02.

youngsters are inevitably destined to become the "prob-
lem individuals" of the next generation—the drug ad-
dicts, criminals, psychopaths, failures of the 1980's.²

Although child protective laws have been adopted or strengthened throughout the country, this paper will discuss the efficacy of the legal and medical professions in five selected states³ in responding to drug-related child abuse, including sexual abuse and incest. This review is based upon case histories of patients in the Odyssey House Parents Program (OHPP)⁴ as well as the various Odyssey House therapeutic communities. Unless otherwise indicated, we will analyze the various case histories as though they had occurred under the present version of the respective state's child protective law. This approach is valid because the areas of weakness in both former and present laws are substantially similar. These weaknesses predominate in three areas: reporting of suspected cases of abuse and neglect; evidentiary limitations on uncorroborated testimony by abused children, especially concerning sexual assault; and protection of the child from retributive acts by the respondent custodian (1) pending investigation of the complaint, and (2) during processing of any orders of termination of custodial rights.

No one specific or unique set of psychiatric characteristics dictates that drug addicts are always unfit parents, but the generally accepted description by Noyes and Kolb suffices:

...for the most part antisocial...the majority of the addicts are those with arrests in ego and super ego development and, for the most part, fixed to an ambivalent maternal figure...both possessive and rejecting...there has been an absence of a strong and consistent father figure. The addict fails to develop internal controls, hopes for immediate gratification of his needs, and yet is continuously frustrated due to his exaggerated demands, his psychosexual immaturity, and his lack of ego capacity that might bring satisfaction by delay and insistent efforts towards his goals.⁵

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The female addict is generally desirous of having children, although she remains highly ambivalent toward them. We believe there are two bases for this ambivalence: first is the mother's need to receive love from the child to compensate for the love she did not herself receive as a child; second is the mother's need to bear children as a redemptive phenomenon, a need the child is also unable to meet. Since the child fails at meeting both these needs the mother acts out in the form of increasing hostility and violence directed toward the child.

The addict mother wants children because they represent love objects and proof of femininity, yet she rejects their demands and is incapable of providing a sustained commitment to their care and welfare. As Chinlund states: "Characteristics shared by female drug addicts appear to be a superficial wish for uncontrolled living—to be relieved of responsibility for actions, a desire to obliterate a sense of time and a rejection of any sense of cause and effect."⁶

Observations of the child/addict parent relationship indicate that: "1) addicts do not alter their life style to accommodate a new child, 2) they fail to make responsible decisions concerning their children, and 3) they are incapable of acting in the best interests of their children, and of meeting a child's needs at the denial of their own."⁷

Further observations indicate that there is a statistical correlation between being sexually abused as children and subsequent substance abuse. A recent study⁸ of Odyssey's treatment facilities in seven states indicated that 44% of the women patients interviewed had had an incestuous experience.⁹ The frequency of such experiences led researchers to conclude that incest formed a major category of child abuse not yet fully appreciated. Almost half of the situations occurred when the female children were 9 years of age or younger; 75% occurred before age 12.¹⁰ At

adolescence, the female may become even more desperate to find relief from her situation and the trauma of the incestuous situation. Often she runs away to escape the environment, joins a negative street culture and uses drugs both as a form of antisocial behavior and as a relief from her inner pain.

Upon attaining motherhood, often as young as 14 or 15, she is a high risk child abuser. New York City Department of Health statistics for 1975 indicate that in the 5-year period 1970-1975¹² there was an increase of 38% in drug-related child abuse cases. Apparently, child neglect and parental drug addiction are interrelated but, of the states studied, only New York recognizes this relationship and codifies it as a criterion for mandated intervention.¹³

Michigan

The service system

The governmental agency responsible for child protective services is the Child Protective Services Division of the Michigan Department of Social Services. The division is charged with investigating and responding to reports of abuse, neglect, cruelty, and abandonment and with providing for appropriate social services to both child and parents. Services include day care, medical, psychological and psychiatric counseling, foster care, placement, and family and marital counseling. Each county deals with new cases at a local office of the Department of Social Services.

The statutes

The recently enacted Child Protection Law¹⁴ is intended "to provide for the protection of children who are abused or neglected,"¹⁵ and to "safeguard and enhance the welfare of children and preserve family life."¹⁶

Case history # 1

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The law¹⁷ requires the filing of an accusatory report by any "physician, coroner, dentist, medical examiner, nurse, audiologist, certified social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer or duly regulated child care provider who has reasonable cause to suspect child abuse¹⁸ or neglect."¹⁹ Failure to report makes one civilly liable for the damages proximately caused by such failure;²⁰ but there are no criminal sanctions for such failure.

Other persons suspecting abuse or neglect may also file reports and be granted immunity if they so choose.²¹ Any such person who acts in good faith is immune from criminal and civil liability and there is a presumption of good faith.²²

The report of abuse or neglect is filed with the Department of Social Services in the county in which the child is found.²³ Although the Department of Social Services is charged with "cooperat[ing] with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying and treating child abuse and neglect,"²⁴ it is not required to provide copies of reports of suspected child abuse and neglect to the prosecuting attorney of the county in which the report was filed, although it "may"²⁵ do so.

Case history
1

Joanie (fictitious name),²⁶ a black Catholic female, was born in 1958 to an addict prostitute. The alleged father was an alcoholic unemployed unskilled laborer. Joanie was abandoned by her mother and subsequently cared for until age 5 or 6 by her maternal grandmother, a 66-year-old, deaf and blind bilateral amputee. A caseworker visiting the home noted that the housekeeping standards were poor.

When Joanie was 6, her grandmother moved to the East Coast for permanent nursing home care. Joanie was then in the sole custody of her alcoholic alleged father. "It is

reported that the father would get food from the neighbors, under the pretense of giving it to Joanie, only to eat it himself, leaving her to survive on no more than one meal each day."¹²

It was not until fourth grade that Joanie came to the attention of a school social worker responding to complaints by other children of Joanie's "strong body odor, filthy clothing and behavioral problems such as stealing food and lying."¹⁸ No record exists of any teachers having notified the appropriate persons that Joanie was potentially a neglected child. The investigation of Joanie's home prompted by her classmates' complaints led to a determination that she was not receiving proper guardianship and that her father was beating her.

At age 10 she was made a ward of the state and placed in a series of foster homes and children's shelters. This resulted in nine placements in 2 years, including foster homes in which sexual abuse of Joanie by the foster parents is believed to have occurred. Joanie became involved with drugs and shoplifting; she was caught by the police twice and returned to the children's home.

At age 14 Joanie was living in the streets and supporting her drug habit by prostitution. At 14½ she voluntarily returned to the Juvenile Center and requested placement. The Center officials promptly discovered that she was pregnant, but, contrary to initial recommendations by the court, Joanie was given permission to marry a 19-year-old known heroin addict, and to keep the baby.

Two months after the birth of baby Anne, Joanie informed her caseworker that she wanted the marriage annulled because her husband beat her. The baby was admitted to the Children's Receiving Home for custody until Joanie, who had been living with her husband and mother-in-law, could make new living arrangements.

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Medical records from the Receiving Home indicate that while there baby Anne was "quite relaxed when being held by anyone but her mother"; when her mother held her she began to "scream in terror." Examination of the baby's admission record reveals that the infant had a black eye, and several bruises about both arms. No mention was made whether a report of these injuries was filed with the legal authorities.²⁹

Joanie, at 15, moved into a new apartment, and was visited by her caseworker who reported that there were adequate "provisions to care for the child's needs," and that she found Joanie "most anxious to have the infant Anne home."³⁰

The day after the 4-month-old baby was released to Joanie, she was brought to the hospital and pronounced dead on arrival. The attending physician noted that the baby had a fractured skull resulting from having been held very tightly and hit on the head at least three times with a heavy object. He further noted that "both parents seemed very unaware of what [had] happened, and appear[ed] to be high on drugs."

After 3 months of intensive investigation Joanie was charged with homicide. She was deemed competent to stand trial by several psychiatrists and psychologists. During the trial, there was testimony that Joanie had attempted to kill herself by drinking turpentine and taking pills early in her adolescence, and that later, on at least one occasion, she had tried to get the baby to do the same. A polygraph test administered pretrial indicated that Joanie was responsible for the baby's death. On February 17, 1974, after 2 days of testimony prior to the commencement of the defense, a motion to dismiss for lack of sufficient evidence was granted.³¹

Evaluation There is little indication that Joanie's story would have had a more satisfactory ending under the present Michigan statute.

Had Joanie's initial living situation been reported to the authorities before Joanie was 10 it is probable that her alleged father's guardianship would have been terminated at an earlier date. A more successful initial placement might have resulted. But the failure of the grandmother's caseworker or Joanie's first through fourth grade teachers to report her as a suspected neglected child, although mandated by law, resulted in no punishment or civil action against them. The legal sanctions for failure to report are limited to *civil liability* for damages proximately caused by such failure.³² Who is going to bring suit? Joanie?

In the second generation, the initial release of baby Anne to Joanie was apparently also not preventable under the newly drafted law as there is no indication on the record whether an investigation was conducted, prior to the baby's initial release to her mother, to determine if she would face potential abuse within the statutory meaning of "threatened harm to health or welfare by a person responsible (for the same) which occurs through non-accidental physical or mental injury, sexual abuse or maltreatment."³³ Under Michigan law, Joanie's status as a drug abusing teenage prostitute married to a criminally insane heroin-addict pimp did not establish a presumption that the child would be abused or neglected. Contrast this with the situation in New York,³⁴ where a parent's status as a drug abuser raises a statutory presumption that the child will be neglected.

Baby Anne's second release from the custody of the receiving home was apparently also not preventable under the new law. Even assuming that the examining physician had made a proper report, and had also determined that release of the baby would have endangered its health and

Case history #2

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welfare, and, as required by law,³⁵ had so notified the head of his department, the department head still had the option to discharge the child to the mother, rather than detain it in protective custody.³⁶

Case history
#2

Barbara³⁷ is a 26-year-old black Baptist female from Detroit. During Barbara's childhood, her mother and father frequently physically assaulted each other. At age 13 she was beaten by her alcoholic mother. She was taken by her school teacher to a hospital for medical care and to Legal Aid for legal advice. In the subsequent court case to terminate her parents' guardianship rights, Barbara refused to testify from fear of her mother's potential retribution. The case was dismissed; Barbara was returned home.

To protect herself from her mother she frequently ran away, seeking shelter with a friend, however, this friend did not report Barbara's situation to the authorities. When Barbara was 15 her mother stabbed her. In the same year Barbara attempted suicide. There is no record of any intervention or ongoing supervision of Barbara's case by any social service or child protective service personnel, after the initial suit to terminate parental rights.

Evaluation Once Barbara's case was successfully reported into the system, the system failed to protect her. The case was dismissed for lack of evidence, a not uncommon occurrence where the traditional rules of evidence in adversary proceedings tend to thwart effective factual determinations in child protective actions.³⁸

The Department of Social Services is now authorized to "take necessary action to prevent further abuses, to safeguard and enhance the welfare of the child...."³⁹ Followup of cases such as Barbara's under this clause might prevent further abuse of the child and/or ultimately

allow the guardian relationship to be terminated if it was not possible upon initial intake. However, the followup implied in this provision will never occur without initial reporting of suspected abuse cases into the system and active pursuit of those cases by responsible authorities.

New York

The service system The New York State Department of Social Services, Emergency Children's Services, places children on an emergency basis through crisis intervention.

New York Foundling Hospital has a comprehensive program using a multidisciplinary approach to prevention of further abuse within a family setting.

The New York City Bureau of Child Welfare functions as the City's family protective services agency. It provides services for children that are supplemental to or substitutes for parental care. The Bureau is charged with investigating reported cases of suspected child abuse and neglect and with providing adequate care, in foster homes and other child caring institutions, for children in need of such service.

Various other organizations, including the Society for Prevention of Cruelty to Children, receive complaints and offer services to maltreated children.

The statutes The stated purpose of the Child Protective Act is "to encourage more complete reporting of suspected child abuse and maltreatment and to establish in each county of the state a child protective service capable of investigating such reports swiftly and competently, and capable of providing protection for the child or children from further abuse or maltreatment and rehabilitative services for the child or children and parents involved."⁴⁰

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Case history #3 Carol, a
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The statute⁴¹ requires mandatory, nonaccusatory reporting by enumerated health care practitioners,⁴² school officials, social services workers, all child care or foster care workers and peace and law enforcement officials who have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused⁴³ or maltreated⁴⁴ child.

Supplementing the Child Protective Act, the Family Court Act states that the child of a parent who utilizes drugs is a "neglected" child.⁴⁵ Although the statute does not identify the child of a drug abuser as an "abused" child, there are cases to the effect that such a child is "abused" by the narcotics addicted parent by reason of the abandonment caused by that addiction.⁴⁶

Willful failure to report an abused or maltreated child constitutes a Class A misdemeanor,⁴⁷ punishable by not less than 15 days nor more than 1 year imprisonment. Failure to file a mandatory report also subjects one to civil liability for the damages proximately caused by such failure.⁴⁸ The statute also provides for the voluntary reporting by any other person who has reasonable cause to believe that a child is abused or maltreated,⁴⁹ with immunity from suit for reporting in good faith.⁵⁰

The Family Court Act also empowers designated individuals, including representatives of the Social Services Department, agents of a duly incorporated Society for the Prevention of Cruelty to Children, and treating physicians, to take a child into protective custody without a court order and without consent of the guardian where releasing the child presents imminent danger to its life or health.⁵¹

Case history #3 Carol, a 16-year-old Baptist black, lives in New York. At age 7 she was molested by three of her alcoholic mother's boyfriends. At age 8 she was molested by her older

brother, a practice he continued whenever the two of them were alone together. At age 8 she lived with her father, who had just been released from an institution (he had been jailed previously for molesting his 8-year-old nephew). Between the ages of 9 and 14 Carol resided with her sister and her sister's two children. Carol had been cared for by her sister on previous occasions when her mother was jailed for operating a gambling house. Her sister would beat her on occasion.

At age 15, her mother brought Carol to court on charges of incorrigibility and truancy; Carol was sent to a correctional facility, where it was discovered that she was pregnant. This was Carol's third pregnancy; the first two, at ages 14 and 15, ended in abortions performed in hospitals. This time Carol delivered in a home for unwed mothers and then came to Odyssey House. Her sister is now caring for her child.

Evaluation Despite the statutory mandate, the school teachers, social workers, physicians and other health care professionals who had contact with Carol failed to report her to the authorities as an abused or neglected child. When Carol's mother took her to court, the judicial system failed to recognize that Carol's parental relationship should be evaluated and possibly terminated.

In the second generation there is no record that Carol's child was evaluated as a potentially neglected child although such an evaluation would be indicated from facts on record.²² Rather, the child was released into the custody of the sister whom Carol reports as having beaten her. As in the case of Joanie, in Michigan, the primary breakdown of the child protective system here is the initial failure by the designated persons to report the suspected case of abuse or neglect. Although failure to so report is punishable

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Case history
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as a misdemeanor,⁵³ there is no indication of enforcement of this penalty and none that enforcement of a fine without loss of license will be effective against the medical professions.

Case history
#4

Edith is a 16-year-old black female raised in Brooklyn. Until she was 13 Edith lived with her grandparents, who collected welfare. When they died, she was cared for by her alcoholic and drug-abusing mother and her mother's paramour. They lived with their three younger children as a family group.

The mother was brought to court by a physician who reported that she beat the youngest child. The child was first placed in foster care, then returned to the mother. Meanwhile, the mother began to beat Edith in place of the younger sibling. When Edith struck her mother back, causing her to be hospitalized, the mother began to abuse the younger brothers again. Finally, Edith and her siblings ran away to an aunt who successfully petitioned to have the children removed from the mother's care. The younger children were placed in foster care. Edith came to Odyssey House.

Evaluation Although this case is the most successful of those reviewed so far, the response of the agencies involved was limited. There is no record that the physical condition of the other siblings was ascertained at the time of the original decision to remove the youngest boy. Nor is there anything in the record as to why the child was subsequently returned to the home, although no change in the home environment had occurred.

Massachusetts

The service system The State Department of Welfare is the agency to which reports of suspected child abuse and neglect are made. The Department provides necessary child protective services by purchasing these from private agencies. The Judge Baker Guidance Clinic in Boston is one of these private service providers. It is staffed by psychiatrists and psychologists and specializes in treating child abuse cases.

The statutes The stated purpose of the Massachusetts statute for the protection of children is to insure that they are "protected against the harmful effects resulting from the absence, inability, inadequacy or destructive behavior of parents or parent substitutes, and to assure good substitute parental care in the event of absence, temporary or permanent inability or unfitness of parents to provide care and protection for their children."⁵⁴

Designated persons⁵⁵ who see children⁵⁶ in their professional capacity and have reasonable cause to believe that a child is suffering serious physical or emotional injury resulting from abuse or neglect or "who is determined to be physically dependent upon an addictive drug at birth"⁵⁷ shall immediately report the condition to the Department of Social Services. Such reporting is mandatory, but no sanctions or penalties for failure to report are included. Any other person suspecting abuse or neglect may report the same.⁵⁸ The nondesignated reporter is given immunity from suit for reporting in good faith, while the designated reporter is given immunity in all situations.⁵⁹

The Department may take a child into immediate temporary custody, without a court order, if it has reasonable cause to believe that the removal of the child is necessary to protect him or her from further abuse or neglect; however, a court order must be sought on the next court day.⁶⁰ Additionally, a treating physician or a hospital may obtain authorization from the presiding judge of the

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Case history #5

Donna⁶² is 12 years old. Her mother's reaction to her chronic alcoholism of the father. Donna was beaten from her aunt, who was unknown. She returned home but not be happy with her mother. Nothing.

Early in the school year, Donna's intelligence, in a class with other children, was poor. She was not motivated. Neither the teacher nor the subsequent teacher. Donna's mother was a teacher and

When Donna was two or three years old, her mother was beaten by Donna's father. (One of the beatings resulted in the death of her mother.)

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juvenile court to refuse to release a child to his or her custodian if the judge believes such release would be detrimental to the child's health or safety.⁶¹

Case history
#5

Donna⁶² is a 28-year-old white female. When Donna was 8 years old her mother began to beat her, largely as a reaction to her own physical abuse by Donna's father, a chronic alcoholic. Her mother never beat Donna in front of the father. The brother intervened when present. When Donna was 10 years old she received a particularly violent beating from her mother. She ran away to her paternal aunt, who reported the abuse to the police. For reasons unknown to Donna the case was dropped. The aunt returned her to her parents with assurances that she would not be harmed. The abuse continued. Donna states that her maternal aunt knew of the family beatings but did nothing.

Early in the fourth grade, Donna, a child of normal intelligence, was removed from the regular class and placed in a class for "disturbed children" (in reality retarded children, many of whom were 14, 15 and 16 years old). She was not removed from this class for the entire year. In neither the initial assignment to the special class nor the subsequent reassignment to the regular fifth grade was Donna seen by any professional other than her regular teacher and the school principal.

When Donna was 9 she began sexually servicing her father two or three times per week. This activity occurred with her mother's consent. The servicing continued until Donna's menses, at which time her younger sister replaced her. (One psychiatrist believes that the severity of the beatings Donna received from her mother may have increased when she began to sexually service her father as a result of her mother's ambivalence in approving this activity.)

When Donna was 12 her father was hospitalized for a

complete mental breakdown. When he returned, and while still under intensive psychiatric care, no one came to investigate the home.

When Donna was 14, her brother was arrested for numerous burglaries. During his evaluation a social worker heard stories of the family violence from one of the aunts, but still no intervention occurred.

Donna left home at age 15, living with a woman who had babysat for her, and caring for that woman's children. At 17 Donna quit school and got herself an apartment; at 18 she married. The marriage was a poor one and broke up quickly when Donna discovered that her husband had exposed himself to her sister. To protect herself from her violent estranged husband, Donna had her heroin-addicted brother move in with her. At this point Donna began to use drugs. Although she suspended her drug usage temporarily during her second pregnancy, she resumed using drugs soon after the child was born.

At 24, Donna was working and receiving some welfare assistance. She became more involved with drugs and quit her job to receive full welfare assistance. She began to beat her children, ages 4 years and 18 months. To quiet her children she taught her oldest son to smoke marijuana, and blew smoke into the face of the younger one who was too small to smoke for himself.

Donna was known to the local police for the drug use that occurred in her apartment. They also knew that she had children but no report of her children as potential abuse or neglect victims was filed. At the time she entered Odyssey House Donna was pregnant with her third child whom she subsequently placed with an adoptive family.

Evaluation As in other states, the statute to respond in... statute to... penalty o... ed. Seco... there is... future su... suffering... her seco... reported... dependen... was no v... tially ne... is mark... curred un...

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Evaluation As in other cases, the Massachusetts system failed to respond in the first instance when a person required by statute to report suspected abuse failed to do so. No penalty or sanction for such a failure to report is provided. Second, the law does not cover situations where there is a substantial certainty that the child will in future suffer from abuse or neglect although he is not so suffering presently. Donna was not abusing drugs during her second pregnancy, therefore, the child could not be reported as one "who is determined to be physically dependent upon an addictive drug at birth."⁶³ Thus there was no way the child could have been reported as potentially neglected before he was placed with Donna; this is markedly different than that which could have occurred under the New York statute.⁶⁴

New Jersey

The service system Under a recently developed system, the Division of Youth and Family Services purchases child welfare services from various private agencies. No particular agency is identified as expert in the child abuse field.

The statute The statute's purpose "is to provide for the protection of children under 18 years of age who have had serious injury inflicted upon them by other than accidental means. It is the intent of this legislation to assure that the lives of innocent children are immediately safeguarded from further injury and possible death and that the legal rights of such children are fully protected."⁶⁵

The statute requires that any person having reasonable cause to believe that a child has been subjected to child abuse⁶⁶ or acts of child abuse, report them to the Division of Youth and Family Services. The reporter is given immunity from both civil and criminal liability.⁶⁷ Know-

ingly violating the provisions of the Act causes the person to be classified as a disorderly person, a misdemeanor.

Case history #6

Grace is a 29-year-old white Catholic female. Both of her parents were alcoholics; her mother was a prostitute.

By the time Grace was 12, her maternal uncle had sexually molested her in front of her younger brother. The uncle had a history of sexually abusing girls, had spent time in jail for this activity, and this history was known to Grace's mother.

Although Grace frequently came to school after having been beaten she was initially referred only to the school nurse, who administered first aid but did not report her to the authorities. Grace first came to the attention of the Children's Bureau at age 15 when she was referred to them by her school because she was so badly beaten by her mother. She was initially told by the social worker that things at home would improve. When she continued to be beaten, the marks could no longer be ignored, and she was temporarily placed in foster care. This custody was short-lived as Grace was soon sent back home to care for her younger siblings when her mother became ill.

Grace's contacts with other persons capable of reporting her abused status were similarly unfruitful. When welfare workers visited the home, Grace's mother made certain that she was sober, the house clean and no physical evidence of child abuse present.

Grace's family doctor volunteered to help her if she had problems with unwanted pregnancies. The writers can only interpret this as an offer to perform abortion on demand, rather than an offer to help Grace avoid such a situation. He hospitalized her at one point to protect her from her parents' ire, but failed to report the abuse to the authorities. His strongest action was to tell the parents to

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Evaluation As in system itially police,

stop beating Grace, which they did until they found a new family physician. The beatings then resumed.

At 16 Grace was removed from school by her mother in order to work to support the family. When Grace protested this action, the school responded that she was a good student with good potential and that she could finish her education in night school.

Later that same year, Grace ran away with her boyfriend. The police refused to look for her, indicating that life with her boyfriend would be an improvement over her family life. Grace and her siblings were well known to the police since the family lived across the street from the police station and as the children would, when left unattended and without food, go to the police to be fed. The police never intervened in this family situation.

Grace indicates that her parents were themselves abused children. Grace further indicates that when her common-law husband deserted her and their two children she began to receive welfare payments, began to drink and shifted the responsibility of caring for the children to her landlady who lived in the same building.

Grace's children did not come to the attention of the authorities until they were reported to child welfare by Grace's mother who was caring for them after Grace had voluntarily obtained psychiatric help for herself. The report was a retributive act by Grace's mother against Grace, rather than an action taken in the children's interest.

Evaluation As in the other cases discussed, the breakdown in the system in this case was the failure of those persons who initially observed the abusive and neglectful treatment: the police, the school teachers, the school nurse, the physician,

the welfare caseworkers, the child welfare worker, and the landlady, to report this maltreatment of the child.

The record fails to indicate any investigation or followup by social service workers at the time of the changes in Grace's custody arrangements. Grace revealed that her mother also abused her younger brother but no investigation was made on his behalf either.

Utah

The service system The divisions of Family Services and Social Services provide some child welfare services, but neither agency is identified as expert in child abuse. Similarly, none of the other resources to whom child abuse cases are referred, including community mental health clinics and foster care agencies, are expert in child abuse.

The statute The Utah statute requires the mandatory reporting of all known or suspected instances of child abuse or neglect⁶⁸ by any person having such suspicions.⁶⁹ Any person making a good faith report is immune from liability therefor.⁷⁰ A knowing and willful violation of the statute constitutes a misdemeanor.

In cases of child abuse and neglect, "it is the intent of the legislature that protective social services shall be made available in an effort to prevent further abuse or neglect and to safeguard and enhance the health and welfare of such children and to preserve family life whenever possible."⁷¹ Reports are filed with the local city police or county sheriff or the office of the Division of Family Services.⁷²

The filing of a report of child abuse or child neglect is the

Case history #7

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Linda was a 28-year-old white Mormon female from Utah. She was adopted when she was 1 month old by her aunt and uncle. The uncle, an alcoholic, assaulted the aunt in Linda's presence. At 5½ she was molested by her uncle, who raped her the next year.

At age 8 or 9 Linda was beaten so severely by her aunt that she could not go to school for 2 weeks. She was beaten like that every 3 months for the next 5 years.

Linda attempted suicide, and was subsequently hospitalized for 1 year for a breakdown. Two months after she was released she was readmitted for another 9 months.

Between the ages of 9 and 13, Linda, who had begun using various drugs, made several suicide attempts. Each time she was hospitalized, then returned home. During this period she saw several psychiatrists, however, she missed several appointments because she had been severely beaten by her mother. No inquiries as to why she missed the appointments were made. Linda also ran away from home several times during this period. Each time the police found her, sent her to the youth detention home, which sent her to the hospital, which sent her home.

Linda left school at the end of the sixth grade. The school made no inquiries as to why this occurred.

At 14 Linda married a 20-year-old alcoholic in an attempt to escape her father's sexual advances. During that year she was raped by her husband's father. At 20 Linda first told her husband of her incestuous experiences. His response was to call her a whore and to place her on the streets to support him by prostitution.

Linda had three children. She related that she would routinely burn them with cigarettes in order to make them cry so that she would be able to comfort them. Linda's children were removed from her care by court order after a series of arrests for heroin possession, and placed in her aunt's custody.

At 29 Linda committed suicide.

Evaluation The school system, the hospital, the psychiatrist, the youth detention center and the police all had ample opportunity and evidence to suspect that Linda was an abused or neglected child. None so reported, nor is there any evidence that any person so failing to report was questioned about their violation of the reporting statute—a misdemeanor. The system failed to function because, as in the other cases discussed, the initial report was not made. Although Utah had a fairly sophisticated matrix of services for children and a mandatory child abuse and neglect reporting system, the repeated failures of persons in that system to take even the initial step of reporting prevented application of the resources designed to intervene in this very type of case.

It must be noted that when a report of Linda's children's abused status was registered, the system functioned well. The social workers worked closely with Linda's treating psychiatrist, a thorough investigation of the aunt's fitness as custodian was performed, and the children were eventually removed from Linda's custody by court order. It must be further noted that it has been the experience of Odyssey House that once a child has been reported into the system the Utah social service vigorously pursues the case until a satisfactory settlement has been achieved.

Conclusions

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Conclusions

Definitive statements, criticisms or conclusions about the respective state systems' response to drug-related child abuse, including sexual abuse, are difficult without further study of the kind we have proposed.⁷³ However, application of existing child protection laws as seen in these case histories leads us to conclude:

1. A comprehensive automatic child care delivery system, similar to those operating in Western Europe, must be developed to replace current delivery systems in the United States, in which only the grossest incidents of child abuse and neglect are discovered.⁷⁴

2. The universal shortcoming encountered was the failure of the persons obligated to report suspected cases of child abuse and neglect to fulfill such obligation. To encourage reporting, a compulsory educational component, coupled with stronger penalties for failure to report these abuses, seems essential. It is evident that a misdemeanor penalty is not a sufficient incentive. We suggest that failure to report by this class of persons be categorized as a felony, especially where nonintervention results in death. Certainly those states which provide no penalty for failure to report, Michigan and Massachusetts, must prescribe a penalty. Such criminal status also implies loss of professional licensing which has much more meaning to doctors and other professionals.

Additionally, while it is laudable that all persons having suspicion of abuse be required to report the same,⁷⁵ there must be a reasonable distinction between those designated persons who see these children in the course of their professional work and lay persons who casually observe such children.⁷⁶ This distinction is made in several of the statutes. We suggest that this second category of persons is in need of considerable education in this matter, but ultimately should be held accountable on some reasonable basis for failing to report.

The inadequacy of civil liability as a remedy for nonreporting is also noted. The criteria for standing or power to bring suit in such actions must be broadly interpreted. In the majority of instances the person having such standing on behalf of the minor (the parent or legal guardian) is the person most likely to be the unreported abuser.

3. We approve the Massachusetts child protection law⁷⁷ which maximizes the interest of the child, with the parental interests and the goal of salvaging family life secondary thereto. This approach vastly differs from the predominant approach of encouraging family life and parental interests even though this may be contrary to the best interests of the child.

Toward this end of recognizing the interest of the child as paramount to the interest of the parent, we find the contents of the Michigan provision⁷⁸ requiring that in any action brought under the Child Protection Law an attorney be appointed to represent the child's interests to be insufficient. While we recognize that the intent of this provision is to place the child on an equal adversarial footing in such an action, the provision of a child's advocate produces only the illusion of such equality. Integral to the adversary system concept is the belief that the client must be able to aid his attorney in the preparation of the litigation. Inability to so aid one's attorney is a criterion for declaring one incompetent to stand criminal prosecution. This ability is no less important in a child welfare determination proceeding. Yet one questions the quality of the aid, if any, that a 4-year-old may give his attorney in developing a case that would represent his best interests. For this reason we reject the adversary model as being appropriate for the determination of child welfare questions.

We propose that an administrative hearing forum, subject to judicial review, be adopted instead of the traditional advocacy model. Such a forum should not be bound by

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traditional evidentiary rules. Moreover, such forum should be charged with reaching a decision in the best interests of the child.

We find the substantive section of the Massachusetts law somewhat less acceptable than its New York counterpart, although highly preferable to the statutes in other states. The Massachusetts statute identifies the drug-addicted infant as an abused child. No identification of substance abusing parents as potential child neglectors is made, in contrast to the New York scheme.

Empirical findings indicate that this emphasis on the infant addict inadequately defines the class to be protected; it excludes children whose mothers are habitual substance abusers but who do not use in such quantity as to cause the infant to become addicted in utero, but includes infants whose mothers may be taking certain drugs to stabilize their condition during pregnancy, *i.e.*, the epileptic mother. These drugs may cause the infant to undergo withdrawal upon birth but their use is not abuse.

4. A strengthening of the provisions allowing a physician, without previous court order, to detain a child he believes will be harmed if returned to his parent or guardian is necessary. The Michigan provision requiring a physician to report such a situation to his superior is only a halfway measure as it is discretionary with the supervisor whether custody over the child will be retained. Similarly, the Massachusetts requirement that a court order be obtained before the child may be retained is not sufficient. In both cases the discretion involved with deciding whether or not to seek a court order and/or detain the child will too frequently be resolved in favor of the least time-consuming alternative, the release of the child; or will fail because the medical realities will not be accorded their full weight by the nonmedical professionals who make the ultimate decision concerning custody of the child. It is recommended

that health institutions having custody of abused children be mandated to retain that custody until alternative child care provisions can be made.

Moreover, the passing comment in *Landeros v. Flood*⁹ is specifically rejected as detrimental to the child's interest. In that case it was recommended that the standard for civil liability of a physician for releasing a child to its parents when the child was possibly battered should be the same as the criminal standard adopted therein.¹⁰ A reasonable belief that the injury could have been sustained accidentally would be sufficient to negate the physician's liability. This standard is rejected as a poor determination of the threshold at which child protective activities should commence. We prefer the concept of suspicion of abuse as this is a lower threshold more easily met.

5. Additionally, it is recommended that the Department of Child Welfare be given the right to remove a child from his present living situation when a complaint of abuse has been filed, pending a court evaluation of that complaint. Such removal may combat, in part, a fear of retribution resulting in a child's decision not to testify in a termination of custody proceeding.

6. Finally, we note the evidentiary problems in this area. We recommend the New York approach wherein the standard rules of evidence are inapplicable to hearings under child protection provisions.¹¹ Under traditional evidentiary statutes, such as in Massachusetts, severe limitations must be overcome. These limitations are threefold.

First, in many jurisdictions a child under the age of 7 is *non sui juris*; he may not, alone, invoke the judicial process. A recent study conducted at the Odyssey House facilities resulted in a finding that 18% of the incest victim population had had their initial cross-generational incest experience under age 7.¹² Incest is a crime that generally

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occurs in the home environment, with no witnesses present other than the participants in the act. The *non sui juris* rule automatically eliminates the portion of the population which is most in need of protection by social institutions.

Second, in all jurisdictions studied, children between the ages of 7 and 12 routinely may give unsworn testimony. Such unsworn testimony is insufficient grounds upon which to base a conviction in a sexual abuse case. Again, given the nature of the act, it is improbable that corroboration is available.

Finally, in all states studied, with the exception of New York, the evidentiary rules requiring corroboration of charges of sexual misconduct again serve to severely restrict the probability of success of prosecution for sexual abuse. A survey of the case law reveals only one case discussing sexual abuse of the child, *In re Hawkins*.⁸³ In that case a finding of abuse was made possible only because the act was corroborated by the victim's 13-year-old brother. The victim's unsworn statement that the act occurred would have been insufficient, standing alone, to support a finding of abuse.

Summary

There exists adequate evidence of the causative relationship between substance abuse and child abuse to support a legal presumption of abuse and/or neglect where the parent or guardian is a drug or other substance abuser. This presumption should be integrated into all child protective systems.

The reporting provisions of state child abuse and neglect statutes must be revised to include a felony penalty for noncompliance.

The child protective systems for insuring the physical safety of the child during the fact finding and adjudicative processes are of limited value. The lack of social services staff, placement services, followup and training often make intervention meaningless. The professionals who consistently release children back to dangerously abusive parents have some awareness of the problem but are not motivated to affirmatively act in the child's behalf. This lack of motivation may stem from frustration with the unwieldy and hostile adjudication process, or from apathy in the absence of meaningful tools.

The children of America deserve better. The legal and medical professions must accept the challenge of developing new tools and systems to significantly relieve the plight of the children of substance abusing parents. Detection, protective intervention and placement should involve a multidisciplinary procedure. The court or decision-maker must assume the function of protector of the child above all others.

The welfare of American children must become a priority of government, as well as of the professions. The children's needs are different from those of adults whose voices are heard by policy-makers and legislators. These concerns should be formally represented at the national cabinet level,⁴ with input and active contribution by the legal and medical professions.

Notes

1. Select Committee on Child Abuse, New York State Assembly, *The Children of Addicts: Unrecognized and Unprotected*, Study Report No. 3 (October 1972).
2. V. Fontana, *The Maltreated Child* (1971), as discussed in Judianne Densen-Gerber and Charles C. Rohrs, "Drug-Addicted Parents and Child Abuse" (Odyssey House 1973).
3. These states are Massachusetts, New York, New Jersey, Utah and Michigan.

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4. The Odyssey House Parents Program (OHPP), a federally funded research-demonstration project, provides treatment services, in the context of its research, to pregnant addicts, addicted parents with small children and women in distress who have histories similar to the former groups. These patients represent over 25 states with dissimilar systems for the delivery of child protective services.

Odyssey House, Inc. is a psychiatrically oriented therapeutic community for the treatment and rehabilitation of drug abusers. The Odyssey method was developed by Dr. Judianne Densen-Gerber and a group of 17 ex-addicts starting in 1966. Central to the organization and philosophy at Odyssey are awareness of new problems in addiction-related fields, meaningful confrontation of these problems, expert and professional demonstration projects which identify the appropriate questions and test alternative treatment techniques, and comprehensive evaluation procedures for assessment of problems and successes within the program.

In the OHPP, pregnant addicts are admitted to treatment, to be given appropriate detoxification and prenatal services, to change the antisocial attitudes and behavior in the mother, and, postpartum, to allow the parent and child to remain together within the therapeutic setting and undergo the resocialization process together. In addition to the proven value of the therapeutic community in rehabilitation of the mother, this modality allows parent and child to live together during the early formative years, under the observation and supervision of the treatment staff. Parents more advanced in the therapeutic process can teach others less mature the qualities and skills of good parenting. The infant can hopefully develop without deprivation of a proper nurturing parent. In short, the OHPP is confronting second-generation addiction at its source, the child-rearing practices of these antisocial parents.

5. A. Noyes and L. Kolb, *Modern Clinical Psychiatry* 474 (1963).
6. S. Chinlund, "Drug Addiction: Implications for Illegitimacy," National Conference on Social Welfare Bulletin (Summer 1969) as discussed in "Drug-Addicted Parents and Child Abuse," *supra* note 2.
7. "Drug-Addicted Parents and Child Abuse," *supra* note 2, at 7.

8. Jean Benward and Judianne Densen-Gerber, "Incest as a Causative Factor in Anti-Social Behavior—An Exploratory Study," 4 *Contemporary Drug Problems* 323 (1975).
9. *Id.* at 6.
10. *Id.* at 19.
11. *Id.* at 17-18.
12. As reported in Charts, Odyssey Institute 1976.
13. The New York provision states that a neglected child is one ". . . whose physical, mental or emotional condition has been impaired or *is in imminent danger of, becoming impaired* as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care. . . in providing the child with the proper supervision or guardianship,. . . by using a drug or drugs; or by using alcoholic beverages to the extent that he loses self-control of his actions." Emphasis added, New York Family Court Act §1021 (f) (i) (B) (C.L.S. 1971). Such a child must be reported by the designated persons to the Central Registry for Abused and Maltreated Children.

Cf. The Massachusetts statute requires only the reporting of infants "who [are] determined to be physically dependent upon an addictive drug at birth. . ." Mass. Public Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976). Children born to drug or alcohol abusing parents, but who are not themselves determined to be addicted to the substance at birth are not reported. There is no Massachusetts provision equivalent to the New York one providing for the reporting of children in imminent danger of being harmed. Under the Massachusetts statute the reporter must have "reasonable cause to believe that [the] child. . . *is suffering* serious physical or emotional injury resulting from abuse. . ." Emphasis added, Mass. Public Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976).
14. Public Acts of 1975, Act No. 238, Mich. C.L. §722.621-722.636.
15. Acts. No. 238, Preamble (1975).
16. Acts. No. 238, Preamble (1975).
17. Mich. C.L. §722.621-722.636 (Supp. 1975).

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18. "Child abuse" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare which occurs through nonaccidental physical or mental injury, sexual abuse or maltreatment. Mich. C.L. §722.622 (b) (Supp. 1975).
19. "Child neglect" means harm to a child's health or welfare by a person responsible for the child's health or welfare which occurs through negligent treatment, including the failure to provide adequate food, clothing, shelter or medical care. Mich. C.L. §722.622 (1) (Supp. 1975). Mich. C.L. §722.623 (1) (Supp. 1975).
20. Mich. C.L. §722.633 (1) (Supp. 1975).
21. Mich. C.L. §722.624 (Supp. 1975).
22. Mich. C.L. §722.625 (Supp. 1975).
23. Mich. C.L. §722.623 (5) (Supp. 1975).
24. Mich. C.L. §722.628 (2) (Supp. 1975).
25. Mich. C.L. §722.623 (5) (Supp. 1975).
26. Joanie's history is more fully discussed at R. Wathey and J. Densen-Gerber, "Preliminary Report on the Sociological Autopsy in Child Abuse Deaths" (presented at the 27th Meeting of the American Academy of Forensic Sciences, February 20, 1975) (Odyssey House, Inc., New York).
27. *Id.* at 4.
28. *Id.*
29. *Id.* at 10.
30. *Id.*
31. *Id.* at 11.
32. Mich. C.L. §722.633 (1) (Suppl 1975).
33. Mich. C.L. §722.622 (b) (Supp. 1975).
34. *Supra* note 12.
35. Mich. C.L. §722.626 (1) (Supp. 1975).
36. Mich. C.L. §722.626 (1) (Supp. 1975).
37. All case histories unless otherwise indicated are found at "Transcripts, Sociological Autopsy" (Monica Hellman, M.S.W., Odyssey House Parents Program, 1976).

38. See *conclusion infra* for a general discussion of the evidentiary problems involved.
39. Mich. C.L. §722.628 (2) (Supp. 1975).
40. New York Social Services Law §411 (McKinney 1976).
41. New York Social Services Law §411-428 (McKinney 1976)..
42. "Any physician, surgeon, medical examiner, coroner, dentist, osteopath, optometrist, chiropractor, podiatrist, resident, intern, registered nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science Practitioner. . ." (New York Social Services Law §413 [McKinney 1976]).
43. "Abused child" means a child less than 16 years of age whose parents or other person legally responsible for his care
- (i) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
 - (ii) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means. . .
 - (iii) commits, or allows to be committed an act of sexual abuse against such child as defined in the penal law, . . . Family Court Act §1012 (e) (McKinney 1976).
44. A "maltreated child" includes a child under 18 years of age:
- (a) defined as a neglected child by the Family Court Act; or
 - (b) who has had serious physical injury inflicted upon him by other than accidental means; Soc. Serv. Law §412 (2) (McKinney 1976).
- "Neglected child" means a child less than 18 years of age:
- (i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his

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parent or other person legally responsible for his care to exercise a minimum degree of care

- (A) in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article 65 of the education law, or medical, dental, optometrical, or surgical care, though financially able to do so or offered financial or other means to do so; or
- (B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by using a drug or drugs or by using alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; or

(ii) who has been abandoned by his parents or other person legally responsible for his care. Family Court Act §1012 (f) (McKinney 1976).

- 45. New York Family Court Act §1012 (f) (i) (B) (McKinney 1976).
- 46. *In re John Children*, 61 Misc. 2d 347, 306 N.Y.S. 2d 797, 807 (1969).
- 47. New York Social Services Law §420 (1) (McKinney 1976).
- 48. New York Social Services Law §420 (2) (McKinney 1976).
- 49. New York Social Services Law §414 (McKinney 1976).
- 50. New York Social Services Law §419 (McKinney 1976).
- 51. New York Family Court Act §1024 (McKinney 1976).
- 52. Such an evaluation would be possible under Family Court Act §1012 (f) (i) (B), *supra* note 42.
- 53. *See supra* note 46.
- 54. Mass. Pub. Welfare, ch. 119 §1 (Mass. Gen. L. Ann. 1969).
- 55. These persons are: physicians, medical interns, medical examiners, dentists, nurses, public or private school teachers,

- educational administrators, guidance or family counselors, probation officers, social workers and policemen. Mass. Pub. Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976).
56. A child is one who is under the age of 18. Mass. Pub. Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976).
 57. Mass. Pub. Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976).
 58. Mass. Pub. Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976).
 59. Mass. Pub. Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976).
 60. Mass. Pub. Welfare, ch. 119 §51B (3) (Mass. Gen. L. Ann. Supp. 1976).
 61. Mass. Pub. Welfare, ch. 119 §51C (Mass. Gen. L. Ann. Supp. 1976).
 62. This case is discussed in detail at David Sandberg, Draft Manuscript on Donna M. (Odyssey House 1976).
 63. Mass. Pub. Welfare, ch. 119 §51A (Mass. Gen. L. Ann. Supp. 1976).
 64. Cf. New York Family Court Act §1012 (f) (i) (B) (C.L.S. 1971) *discussed supra* 13.
 65. New Jersey Rev. Stat. Ann. §9:6-8.8 (Cum. Supp. 1977).
 66. "Abused or neglected child" means a child less than 18 years of age whose parent or guardian, as herein defined, (1) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; (2) creates or allows to be created a substantial ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; or (3) commits or allows to be committed an act of sexual abuse against the child; (4) or a child whose physical, mental or emotional condition has been impaired as the result of the failure of his parent or guardian, . . . to exercise a minimum

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degree of care (a) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (b) in providing the child with proper supervision or guardianship, by unreasonable inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court; or (5) who has been willfully abandoned by his parent or guardian. . . .

67. New Jersey Rev. Stat. Ann. §9:6-8.13 (Cum. Supp. 1977).
68. (1) "Child abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare.
 (2) "Harm or threatened harm" means any nonaccidental physical or mental injury, sexual abuse, negligent treatment or maltreatment including the failure to provide adequate food, clothing or shelter..." Utah C.L.A. §55-16-1.5 (Supp. 1975).
69. Utah C.L.A. §55-16-2 (Supp. 1975).
70. Utah C.L.A. §55-16-4 (Supp. 1975).
71. Utah C.L.A. §55-16-1 (Supp. 1975).
72. Utah C.L.A. §55-16-3 (Supp. 1975).
73. This proposal states:

Introduction

This memorandum is intended to serve as a preliminary sketch of an Office of Special Counsel to the Governor (or to the Legislature), preparatory to the creation of a Cabinet post, to be created either by Executive Order or by legislation. The Director of this Office will be reportable directly to the Governor and to a Senate Committee to be designated.

The mandate of the Office will be to identify the significant problems of children in New York State, and the availability and delivery of resources and services to meet their needs. The Office will operate on two approaches simultaneously: a component for survey and analysis of current legislation, delivery systems and service programs; and a sociological autopsy component, tracing

child abuse deaths. After a 12-month period, wherein data from both component studies will be assembled and analyzed, the Office will design and recommend policy and implementation of programs and systems to more effectively and efficiently coordinate and administer the available expertise, resources and services on the state and local level.

SERVICES TO CHILDREN
SURVEY AND ANALYSIS COMPONENT
PROPOSED ACTIVITIES

1. Coordinate and direct a 12-month survey of all existing resources and services, including but not limited to health, social service, legal, education, juvenile justice and child protection legislation, programs and systems on the state and local levels. This would include an evaluation and analysis of the legislation or implementing orders, the nature of services, the qualifications of service providers, eligibility requirements of recipients, criteria for intervention, scope of intervention, quality of services and impact on the designated problem areas, as well as the coordination with similar programs or services from other sources, governmental or private.
2. Hold public hearings periodically in each county with state and local officials, service administrators and providers, community leaders, and private citizens to receive maximum input on needed changes and to help monitor the progress of and public response to legislative and or programmatic developments. Transcripts and findings would be submitted to the Governor and to the designated Senate Committee.
3. Conduct a public education and awareness campaign to create a general understanding of the significance of children as the most valuable national resource; and of the numerous problems threatening the health, safety and development of children, individually and collectively. The campaign would present the public and its officials with facts and statistics which would facilitate and promote greater effectiveness and efficiency of the various components of the present system. Support will be sought for

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establishing the concerns of children as a priority of public services.

4. Organize and utilize an advisory board of citizens, private foundations, religious leaders, professional groups and service providers to meet regularly with the Director and to make recommendations on programs and policy matters.
5. Submit a quarterly report to the designated Senate Committee by the Director on the activities, findings, recommendations, and problems of the Office. The Committee will be requested to take particular notice of any major issues raised which are of appropriate concern to the legislative sector.
6. Examples of coordination of resources and efforts:
 - a. Law enforcement monies and mental health monies should be coordinated in services and programs to provide a comprehensive, effective effort at a reduced net cost to taxpayers.
 - b. Develop mechanisms for local dissemination of information to the public of existing service programs (such as the WIC programs).
 - c. Investigation of the problems of runaway children and abandoned children, and the coordination of resources allocated to their care and protection.
 - d. Promulgation of guidelines for educational materials and courses on parenting for use in public school curriculae.
 - e. Encourage the development and use of materials and courses in public schools with which to acquaint children with American values and traditions, and to update American history courses to reflect the participation of women and racial and ethnic minorities in the shaping of the development of the United States' position of world prominence.

This proposal was prepared for a state level position. A similar proposal for the creation of a national Cabinet post for the Concerns of Children has also been presented.

74. *Id.*

75. *See supra* discussion of Utah and New Jersey law.

76. *See supra* provisions in New York, Massachusetts and Michigan laws.

77. Mass. Public Welfare, ch. 119 §1 (Mass. Gen. L. Ann. 1969).
78. Michigan C.L. §722.630 (Supp. 1975).
79. 131 Cal. R. Supp. 69 (S. Ct. 1976), in which the plaintiff minor sued the defendant physician for malpractice for failing to take proper medical steps to diagnose and treat plaintiff as a battered child, including reporting plaintiff to the proper authorities as an abused child.
80. *Id.*
81. New York Family Court Act §1046 (McKinney 1976).
82. Wathey and Densen-Gerber, *supra* note 12, at Chart 10.
83. 351 N.Y.S. 2d 574 (New York County Family Court, 1974).
84. *See supra* note 73.

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