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Overview of Child Abuse and Neglect:

**Trends and Roles of the Child Welfare
Agency and the Juvenile Court**

National Center for Juvenile Justice
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Pittsburgh, PA 15219

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Overview of Child Abuse and Neglect:
Trends and Roles of the Child Welfare
Agency and the Juvenile Court

by

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INTRODUCTION

The child welfare system (comprised of the child welfare agency and the juvenile or family court, guardians for the child, and attorneys among others) was designed to protect children from abuse and neglect inflicted at the hands of one or both parents. The standard system response in these situations has often been to remove children from their families and place them in foster care. The impact of this policy on the lives of many children has reached crisis proportions. Estimates of the number of children in substitute care vary and have fluctuated quite a bit over the past twenty-five years. However, it would not be unrealistic to estimate that nearly half a million children are in substitute care in 1995. What's more, most children in foster care experience multiple placements over a course of several years in the system.

During the past twenty years, the child welfare system has attempted to shift the focus away from removing children from abusive situations toward preserving families by addressing the abuse in the home. These actions have been based on beliefs that: children belong with their family of origin and that families are the best unit of socialization, moving a child from one foster home to another seriously impairs that child's emotional development, and removal does not automatically equate to safety for the child.

The movement to preserve families crystallized in 1974 with the establishment of Title XX of the Social Services Act which provided grants to states for social services directed at preventing or remedying abuse and neglect, preserving families and preventing or reducing inappropriate institutional care. The first "family preservation" program, Homebuilders, begun in Tacoma, Washington in 1974, was conceived as a substitute for unnecessary foster care placements. In 1980 P.L. 96-272, the Adoption Assistance and Child Welfare Act, provided incentive funds to states to implement programs to prevent unnecessary foster care placement and required judges to determine that "reasonable efforts" had been made to prevent the child's removal from home.¹

In addition to preserving families, P.L. 96-272 also sought to address the issue of permanency for the unprecedented numbers of youth who remained in foster care, often for years on end. The law required six month follow-up reviews of the case plan and, within 18 months of a child's removal, a hearing had to be held to decide on the permanent placement of the child. While the mandates were clear--restoration of the family and permanency for children as soon as possible--a lack of federal funding undermined the system's ability to accomplish these tasks.

Moreover, while the emphasis has been and continues to be on preserving families, there is a growing awareness that a child's best bet for permanency may be one in which parental rights are terminated because there are such things as bad families. The problem for the system is how to identify a "bad parent" and quickly terminate parental rights so that the child can grow up in a supportive, loving adoptive family without having suffered needlessly at the hands of the system charged with meeting his needs.

The overview that follows has been written to give the reader an understanding of the nature and extent of child victimization as well as the roles that the child welfare agency and the juvenile court play with respect to handling cases of abuse and neglect. It has been written in general fashion, without emphasis on individual state requirements or laws. It is but one in a series of reports designed to provide information to those organizations interested in reform efforts to improve services to this special population of children.

¹ Barthel, Joan. *For Children's Sake: The promise of family preservation*. New York: Edna McConnell Clark Foundation, 1992.

**CHILD VICTIMIZATION AND
MALTREATMENT: CHARACTERISTICS AND
RECENT TRENDS**

In 1992 there were an estimated 2.2 million violent victimizations (murder, rape, robbery, assault) of juveniles under age 18.²

Child victims below age six were the most likely to be victimized by a family member (50%) and least likely to be victimized by strangers (9%). For children under age 12, injury was more likely to result when they were victimized by family members (42%) than by strangers (35%) or acquaintances (38%).

According to FBI homicide data, about one in ten homicide victims are juveniles under age 18.³ In 1992 nearly 2,600 juveniles under age 18 were killed — an average of 7 per day. From 1976 through 1991, four in ten juvenile homicide victims were killed by family members, most of them by parents.⁴ According to a Bureau of Justice Statistics study of murder cases disposed in 1988, four out of five children under age 12 murdered by their parents had been previously abused by the parent who killed them.⁵

Figure 1

Child victims of violent crime are more likely than older juvenile victims to be victimized by a family member

Offender type	Victim's age						
	All ages	5 & younger	6-11	12-17	11 & younger	17 & younger	18 & older
Family member	27%	50%	26%	17%	33%	22%	29%
Acquaintance	53	41	59	64	54	61	51
Stranger	20	9	15	18	13	17	20
Total	100%	100%	100%	100%	100%	100%	100%

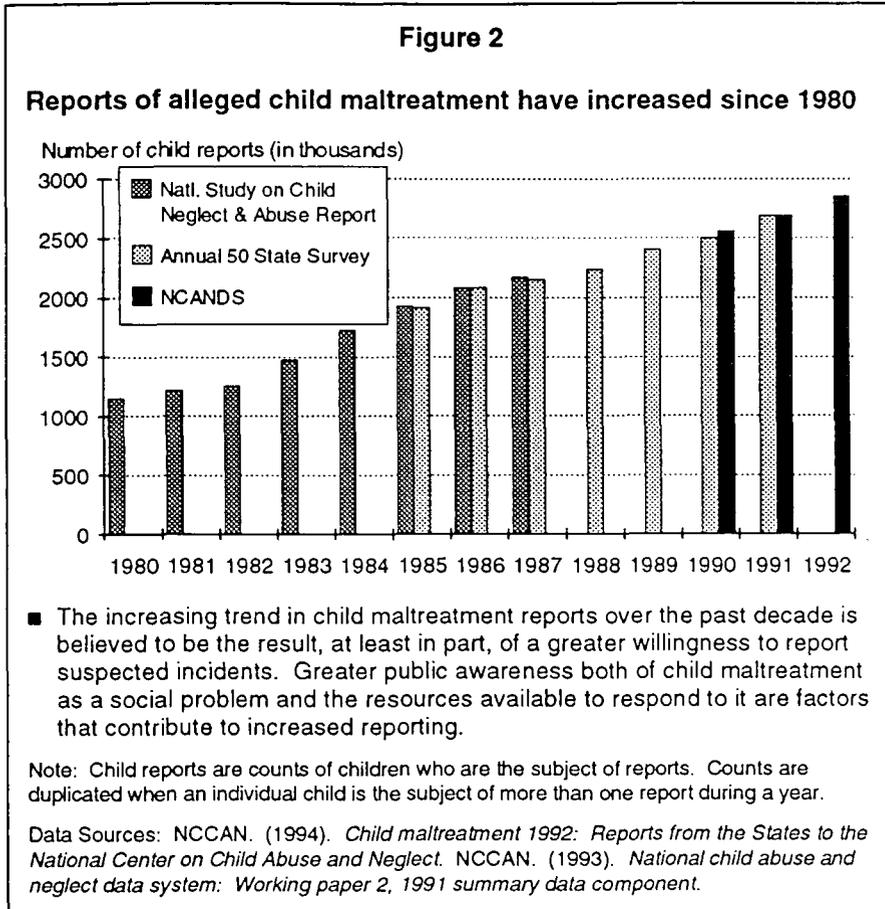
Data Source: Snyder, H. (1994). *The criminal victimization of young children*.

² Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

³ FBI. (1993) *Crime in the United States 1992*.

⁴ FBI. (1993) *Supplementary homicide reports 1976-1991* [machine-readable data file]. Washington, DC: FBI. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

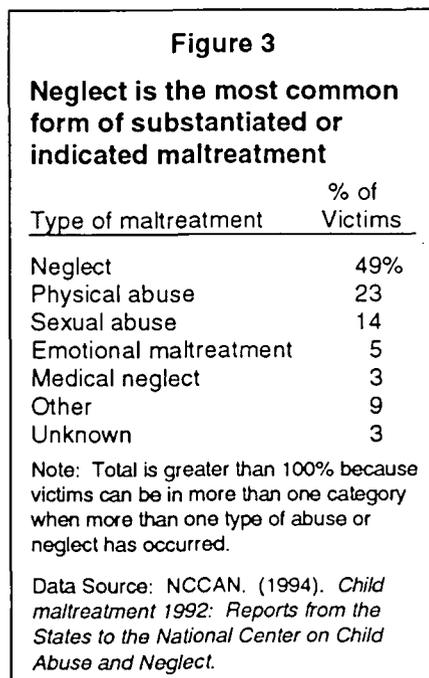
⁵ Dawson, J. and Langan, P. (1994) *Murder in families. BJS Special Report*. Washington, DC: BJS. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.



Nationally, child welfare agencies received an estimated 1.9 million reports of alleged child maltreatment in 1992.⁶ Maltreatment is defined as neglect, physical and sexual abuse, emotional maltreatment, medical neglect, etc.) The number of children who were the subject of maltreatment reports increased nearly 150% from 1980–1992. The increasing trend in child maltreatment reports over the past decade is believed to be the result, at least in part, of a greater willingness to report suspected incidents.

Because many child maltreatment reports involve more than one

child and a child may be the subject of more than one report in a year, it is difficult to determine the number of individual children who are victims of maltreatment. One study estimated that 1.4 million children were “officially recognized” by child welfare and other agencies or institutions (police, schools, day care centers, etc.) as harmed or at risk of harm by maltreatment at least once during the year in 1986.⁷



⁶ National Center on Child Abuse and Neglect. (1994). *Child maltreatment 1992: Reports from the States to the National Center on Child Abuse and Neglect*. National Center on Child Abuse and Neglect. (1993). *National child abuse and neglect data system: Working paper 2, 1991 summary data component*. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

⁷ National Center on Child Abuse and Neglect. (1988) *Study findings: Study of national incidence and prevalence of child abuse and neglect*. Washington, DC: NCCAN. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

More than 440,000 children were in some type of substitute care at the end of 1992 about 60% more than ten years earlier.⁸ Three-quarters of the children in substitute care live in foster homes; others live in shelters, group homes, hospitals, independent living, etc. Recent projections

estimate that 550,000 children will be in foster care by 1995.⁹

Research shows that today's abused and neglected children are likely to be tomorrow's offenders. An ongoing study of delinquency examined direct

Figure 4

For every 1,000 juveniles in the Nation, 43 were the subject of abuse and neglect reports in 1992

State	Population under age 18 (in thousands)	Number of children subject of a report	State	Population under age 18 (in thousands)	Number of children subject of a report
Total U.S.	66,166	2,855,691	Missouri	1,350	79,493
Alabama	1,076	43,246	Montana*	226	14,760
Alaska*	185	9,892	Nebraska	439	17,029
Arizona	1,047	51,216	Nevada	338	22,540
Arkansas	629	36,089	New Hampshire	280	10,943
California	8,423	463,090	New Jersey	1,863	50,443
Colorado	909	55,740	New Mexico*	469	26,969
Connecticut	771	22,080	New York	4,422	228,457
Delaware	172	8,292	N. Carolina	1,662	88,472
Dist. of Columbia	117	12,093	N. Dakota	172	7,565
Florida	3,106	180,285	Ohio	2,820	148,101
Georgia	1,800	46,192	Oklahoma	858	24,092
Hawaii	293	5,310	Oregon	766	41,506
Idaho	324	24,020	Pennsylvania	2,844	25,891
Illinois	3,029	131,592	Rhode Island	233	12,886
Indiana	1,461	58,970	S. Carolina*	945	33,854
Iowa	735	28,094	S. Dakota	204	10,486
Kansas	678	22,079	Tennessee	1,246	31,231
Kentucky	964	56,438	Texas	5,072	174,255
Louisiana	1,238	47,893	Utah	654	27,047
Maine	306	10,177	Vermont	144	3,205
Maryland	1,226	48,698	Virginia	1,562	55,680
Mass.	1,384	52,581	Washington	1,355	55,836
Michigan	2,509	117,316	West Virginia	438	20,949
Minnesota	1,206	27,462	Wisconsin	1,330	47,622
Mississippi	748	32,076	Wyoming	138	5,458

* Unduplicated counts — children who were the subject of more than one report during the year were only counted once.

Note: Unless indicated otherwise, data are duplicated counts of children who are the subject of reports. Counts are "duplicated" because an individual child may be the subject of more than one report during the year. Many reports involve more than one child, in which case each child is counted separately.

Data Source: NCCAN. (1994). *Child maltreatment 1992: Reports from the States to the National Center on Child Abuse and Neglect*.

⁸ Tatar, T. (1993). U.S. child substitute care flow data for FY 92 and current trends in the State child substitute care populations. *VCIS Research Notes*. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

⁹ *National Commission on Children, Final Report, Beyond Rhetoric: A New American Agenda for Children and Families*, 283-84 (1991).

child maltreatment as well as more general exposure to family violence, including witnessing domestic violence.¹⁰ Compared with youth who were not abused or neglected, a greater proportion of youth who were substantiated victims of maltreatment before age 12 reported committing violent acts (70% vs. 56%). Even if they were not direct victims, youth exposed to various forms of family violence had higher rates of self-reported violence than those who were not exposed to such family violence.

Figure 5

Not only does "violence beget violence," but neglect does too

Type of abuse	Percent with violent offense arrest
Physical abuse only	16%
Neglect only	12
Sexual abuse only	6
Comparison group	8

Data Source: Widom, C. (1992). The cycle of violence. *NIJ Research in Brief*.

Another study also found that abused and neglected children are more likely to become violent.¹¹ Researchers found that 26% of abused or neglected children eventually had a juvenile arrest record, compared with 17% of children who were not abused or neglected. Abused or neglected children were also more likely to have an adult arrest record (29% compared with 21%) and to have an adult or juvenile arrest for violent crime (11% compared with 8%). And while the likelihood of later violence was greater for children who experienced violence first hand, neglected children also displayed an elevated level of violence later in life.

¹⁰ Thornberry, T. (1994). Violent families and youth violence. OJJDP Fact Sheet. Washington, DC: OJJDP. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: OJJDP.

¹¹ Widom, C. (1992) *The Cycle of Violence. NIJ Research in Brief*. Washington, DC: National Institute of Justice. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

THE CHILD WELFARE AGENCY'S ROLE

Making a Report

In all states, child welfare agencies are mandated by law to conduct investigations of reports of alleged child abuse and neglect and offer rehabilitative services to families where maltreatment has occurred or is likely to occur. Anyone having suspicions of child abuse or neglect can make a report to the authorities, usually by calling a local child abuse hotline. Some individuals, such as medical and mental health professionals, educators, child care providers, social workers, police and clergy, are often required by law to report suspicions of abuse and neglect. Educators as well as parents, relatives and neighbors are the most common sources of referral of maltreatment cases to child welfare agencies.

Intake and Investigation Stages

Upon receiving a report of suspected maltreatment, the child welfare agency conducts a series of investigations into the matter, collecting more information from more sources at each stage. During the first stage, intake staff determine whether the report constitutes an allegation of abuse or neglect as defined by state statute; the child's identity and location; and the urgency of the response needed. The intake worker questions the person who called the hotline and attempts to quickly gather as much information as possible about the child, the alleged incident, the child's caretaker and the alleged perpetrator. Most agencies have criteria for assigning the case a priority rating at intake that differentiates agency response requirements. The initial intake assessment is generally completed within several minutes of the call.

Investigation caseworkers generally respond to reports of abuse and neglect within 2 to 3 days. A more immediate response may be required if it is determined that the child is at imminent risk of death, injury or impairment and needs emergency custody. During this second stage, caseworkers conduct interviews with various individuals (the victim, other siblings, non-offending parent, alleged perpetrator, witnesses) and investigate collateral sources of information (medical and psychological exams, school records, etc.) to determine whether the child has been abused or

neglected and whether the child is at present and/or future risk of abuse or neglect.

If, during the investigation, there is substantial risk of serious physical or emotional harm, severe neglect, or lack of supervision, a child may be removed from the home under provisions of State law. All states require that a court hearing be held prior to or shortly after removal to approve temporary custody by the child welfare agency. A child may be removed from home at any time during the agency's involvement in the case if the caseworker believes the child to be at imminent risk.

Following the second stage investigation, the caseworker may: 1) close the case if sufficient evidence does not exist to support maltreatment and the child is not at future risk; or 2) transfer the case for ongoing agency services if sufficient evidence exists to substantiate the allegation of maltreatment or when maltreatment is indicated. Even when the original allegation of maltreatment cannot be supported by evidence, the caseworker may refer the case for ongoing services if a risk of future abuse or neglect appears to exist. This assessment of risk is a continuous process occurring throughout the life of a case. Allegations of child maltreatment were substantiated or indicated in 41% of the 1.6 million maltreatment investigations conducted in 1992. In one out of five cases where maltreatment was substantiated or indicated the child was removed from the home.¹²

Ongoing Supervision Stage

During the third stage, caseworkers develop case plans for all cases referred for ongoing services (i.e., protective services in the home or alternative living situations). Case plans are developed in an attempt to alter conditions and/or behaviors resulting in the abuse or neglect and outline the protective services to be provided to families in their homes or the reunification services of children in foster care. The majority of cases

under the agency's jurisdiction are voluntarily receiving protective services in their home, some following a brief, temporary removal from the home. The more difficult cases--those refusing to voluntarily accept services or when the child must be removed from the home--are referred to juvenile court. As many as one in five substantiated or indicated victims of maltreatment may be court involved.¹³ In these cases, the juvenile court decides who shall have custody and control of the child.

During ongoing supervision, caseworkers are required to make home visits in all cases; supervise parent-child visitation in foster care cases; contact service providers, school personnel and others involved in the case; and make referrals for services for their clients when necessary. They are also required to conduct periodic reviews on all cases. For children requiring a setting other than regular foster care, the child welfare agency provides specialized placements in group homes; public and private residential facilities, institutions and hospitals; therapeutic foster care and supervised independent living settings.

Case Closure or Termination of Parental Rights

The agency's involvement in a case is closed if the family resists intervention efforts and the child is considered to be at low risk of harm, or when the risk of abuse or neglect has been eliminated or sufficiently reduced. If a child cannot be returned home to a protective environment within a reasonable time frame, parental rights may be terminated so that permanent alternatives for the child may be found.

THE CRISIS FACING THE CHILD WELFARE SYSTEM

In an ideal world, the processing and investigation of cases and the delivery of services by the child welfare agency would occur in a timely manner and be of sufficient quality that cases are not mishandled, that children and families receive the

¹² National Center on Child Abuse and Neglect. (1994). *Child maltreatment 1992: Reports from the States to the National Center on Child Abuse and Neglect*. National Center on Child Abuse and Neglect. (1993). National child abuse and neglect data system: Working paper 2, 1991 summary data component. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

¹³ National Center on Child Abuse and Neglect. (1993). National child abuse and neglect data system: Working paper 2, 1991 summary data component. Cited in Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

services they need, and that children do not languish in foster care without a plan for permanency.

However, the reality is that child welfare agencies across the country are constantly struggling to meet their mandates. Caseworkers are generally inexperienced and turnover is high due to job stress and low pay. Public awareness of the seriousness of abuse and neglect has led to an increase in reporting. The impact of the effects of poverty, drug-exposed mothers and infants, and divorce and a growing recognition that child victims are often found in violent families have exacerbated the problem. Child welfare agencies simply are not able to provide quality services in a timely manner.

Child welfare agencies are not alone in their struggle to meet the needs of abused and neglected children. Juvenile and family courts are mandated to make critical legal decisions and oversee agency efforts when the family is unwilling to voluntarily participate in the agency's plan for protective services or when the child must be removed from the home. As agency caseloads have risen, so too have judicial caseloads. Hardin argues that "[i]n many jurisdictions, there is a gross mismatch between the demands made on juvenile courts in neglect and abuse cases and the number of judges and courtrooms to conduct the hearings. It is no exaggeration to refer to this situation as a crisis in many large urban courts."¹⁴

THE JUVENILE COURT'S ROLE

In the past two decades, juvenile and family courts have taken on a far more active role in the handling of abuse and neglect cases. In the 1970's, these courts were only expected to determine whether a child had been abused or neglected and, if so, whether the child needed to be removed from the home and placed under court or agency supervision. State and federal legislation, specifically the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), sharply increased the scope of judicial oversight responsibilities in these matters. At present, juvenile and family courts are expected to make

sure that a safe, permanent and stable home is secured for each abused and neglected child. The court is to remain actively involved in a case until a child is safely returned home or is placed in a permanent home. Judicial involvement may extend over a period of years before the case is closed.¹⁵

P.L. 96-272 underscored three important principles: 1) the prevention of unnecessary foster care placements; 2) the reunification of children in foster care with their biological families, when feasible; and 3) the timely adoption of children unable to return to home. The Act makes substantial demands on the juvenile and family courts' handling of child abuse and neglect cases. As a result, juvenile and family courts now take a far more active role in decision-making in abuse and neglect cases. More complex issues are now decided in each case, more hearings held, and many more persons besides the judge, prosecutor and caseworker are involved including attorneys for parents and children, guardians ad litem for children, and foster parents. Additionally, the court may require other interested parties to participate in these hearings including non-custodial parents, putative fathers, relatives and a wide range of private service providers.

The number and frequency of hearings a juvenile court must conduct to meet its statutory obligations in neglect and abuse proceedings has gone up dramatically. While it was not uncommon in the 1970's for a court to hold but one brief uncontested hearing in a case, the same court may now hold four or more hearings (e.g., Shelter Care, Pretrial, Adjudication, Disposition) to reach initial disposition on a case (typically within the first three to six months of filing) and two or more review hearings annually as long as the child remains a dependent ward of the court.¹⁶ A considerable percentage of these cases will culminate in Termination of Parental Rights proceedings which further increase the number of hearings a juvenile or family court will need to include on its neglect and abuse docket (some of which are very likely to be hotly contested).

¹⁴ Hardin, M. (1992) *Judicial implementation of permanency planning reform: One court that works* (p.12). Washington DC: American Bar Association.

¹⁵ Hardin, M. (1992) *Judicial implementation of permanency planning reform: One court that works*. Washington DC: American Bar Association.

¹⁶ Hardin, M. (1992) *Judicial implementation of permanency planning reform: One court that works* (p. 10). Washington DC: American Bar Association.

MODEL LEGISLATION AND COURT PROTOCOLS TO IMPROVE OUTCOMES FOR ABUSED AND NEGLECTED CHILDREN

Despite the burdens faced by child welfare agencies and juvenile and family courts in responding to the needs of abused and neglected, there are a number of successful systemic improvements currently underway.

Unified Family Courts

As the social and legal problems of children and families have escalated, courts have developed more effective ways of responding to their needs. Many court systems have increased coordination of family cases to insure that the juvenile court is aware of other court cases involving the same family that may be proceeding in other courts and vice versa. Still other courts have emphasized nonadversarial dispute resolution in all family conflicts and developed an array of domestic violence, visitation, divorce education, child advocacy, and pro-se litigation resources to insure the protection of children. But perhaps the most promising development of all is the emergence of fully unified family courts.

A unified family court should be the equal of the highest trial court of general jurisdiction and be staffed by specialist judges and other professionals. The Court would manage an array of family related cases, including delinquency, dependency, status offenses, paternity, custody, support, mental health, adoption, family violence, and marital dissolution.

Family courts have tremendous potential for reducing the problems that arise when families come to court. When such courts have judges who are selected on the basis of interest, commitment and qualification and are provided with specialized training they can develop alternative dispute forums that mitigate the anger and frustration generated by adversarial procedure in family conflicts; make more informed and effective decisions regarding children and families through the use of integrated family court management information systems; eliminate the problem of conflicting court orders in children and family cases and provide the leadership required to develop an integrated service delivery system. They can also assure that children and families have complete and easy access to the

protective and restorative power of the court. In other words, well administered, unified family courts such as those that exist in New Jersey, Hawaii and Rhode Island can address the needs of children in the context of the family which is responsible for the child's overall socialization. (See generally, Recommendations for a Model Family Court: A Report from the National Family Court Symposium. National Council of Juvenile and Family Court Judges, 1991; Court Coordination of Family Cases, National Center for State Courts, 1992; Policy Alternatives and Current Court Practice in the Special Problem Areas of Jurisdiction over the Family, National Center for Juvenile Justice, 1993; Family Violence: A Model State Code, NCJFCJ, 1994.)

Judicial Resource Guidelines

The National Council of Juvenile and Family Court Judges (NCJFCJ) has developed a comprehensive set of resource guidelines for improving the juvenile and family courts' handling of child abuse and neglect cases. The purpose of these guidelines is to describe the resources required to fulfill the role placed upon courts by federal and state laws. The guidelines:

- Set forth the elements of a high-quality judicial process in child abuse and neglect cases;
- Specify the necessary elements of a fair, thorough and timely court process in such cases;
- Describe how court calendars can be managed to achieve efficiency and avoid delays;
- Explain the court staffing and organization necessary to make the judicial process run smoothly; and
- Estimate costs associated with such reforms.

The most basic principle underlying these guidelines is the need for comprehensive and timely judicial action in child welfare cases. These guidelines recognize the need to assure safe and permanent homes for abuse and neglected children and the prominent role of the judiciary in this process. They further recognize that the courts must insure that reasonable efforts have been taken to avoid unnecessary separation and, if foster care is required, that reasonable efforts have

been made to bring about the safe reunification of children and families. Lastly, in cases where family reunification is not feasible, the court is to take an active oversight role in insuring that a permanent home is found within a reasonable amount of time. (See Resource Guidelines for Improving the Juvenile and Family Courts' Handling of Child Abuse and Neglect Cases. National Council of Juvenile and Family Court Judges, 1995.)

Protocol for Drug-Related Dependency Cases

The NCJFCJ also produced a document which responds to the urgent problems of drug-exposed infants and children and their families and is designed to serve as a protocol for decision-makers in the fields of law enforcement, public health, medical, drug treatment, social service and law. Its purpose is to assist them in defining, providing and enforcing "reasonable efforts" towards enabling drug-exposed children to remain safely at home instead of being unnecessarily placed in foster care, or to rejoin their biological families as soon as possible. A number of overriding principles governed the development of the protocol including one that states that a child should be removed from the home only upon a showing that there is a substantial risk of harm to the child that cannot be ameliorated through family strengthening services. The protocol contains sections on roles and responsibilities of decision-makers, a court proceedings checklist, recommended service delivery systems for strengthening families, an overview of statutory and case law, and model programs and approaches. (See Protocol for Making Reasonable Efforts to Preserve Families in Drug-Related Dependency Cases, National Council of Juvenile and Family Court Judges, 1992.)

All tables and graphs are taken from Snyder, H. and Sickmund, M. (1995) *Juvenile offenders and victims: A national report*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

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