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Child protection and justice systems processing of serious child abuse and neglect cases[☆]

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Abstract

Objective: The aim of this study was to examine the trajectory of cases through four systems: child protection, law enforcement, the dependency courts, and the criminal courts.

Method: This study focused on a county selected from a 41-county telephone survey conducted for the National Incidence Study of Child Abuse and Neglect (NIS-3). For this analysis prospective samples were drawn from law enforcement ($n = 225$) and the county child protection (CPS) agency ($n = 225$) and followed through in-depth case tracking across all agencies and through both the dependency and criminal court systems.

Results: The percentage of CPS cases opened in dependency court was similar to prior studies (29%), but the acceptance and prosecution rates were much higher—92% of the cases referred from CPS, including many cases of physical abuse. Compared to referrals from CPS to law enforcement (93%), few cases were referred from law enforcement to CPS (17%). Anecdotally, case referral patterns appeared to be influenced by communication patterns and mutual positive regard, regardless of the collaborative protocols in place. One of the most instructive findings was the degree of difficulty in tracking cases across organizations and the types of obstacles that impeded success. Disorganization was not an issue, rather internal structures set up to facili-

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tate intra-organizational processing were the same structures that actually impeded cross-organizational case finding.

Conclusions: It is not sufficient to rely on the existence of multi-disciplinary teams or Child Advocacy Centers to ensure collaboration. More attention to daily tasks and activities as well as the nature and quality of communication is warranted. On the technical side, use of common case identifiers on cases that are cross-referred is strongly recommended. Future studies should broaden the scope of inquiry to include the consequences of all case trajectories, rather than solely focusing on the justice system.

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Introduction

Child protective service (CPS) agencies, law enforcement, and the dependency court are the systems with a statutory mandate to protect children from harm (US Advisory Board on Child Abuse and Neglect, 1995). The legal institutions mandated to hold the perpetrator criminally responsible for harm to the child are law enforcement (which often serves in two capacities—child protection and criminal prosecution) and the criminal court. Those involved in responding to child abuse and neglect often have different missions, philosophies and goals in working toward resolution of child maltreatment reports. This study sought to understand more thoroughly the daily interaction of these systems and to identify how cases proceed through, or are diverted from, the court system.

Therapeutic intervention and law enforcement in CPS

The concept that laws designed to achieve therapeutic ends should be examined to determine whether or not they actually facilitate or impede these therapeutic aims is known as “therapeutic jurisprudence” (Stolle & Wexler, 1997; Wexler, 1996, 1990; Wexler & Winick, 1991). Child welfare law concerning the recognition, reporting, and processing of child maltreatment seeks to establish such a therapeutic standard. The goal tends to be identification of maltreatment, intervention, and remediation of the factors that led to the abuse or neglect (Brooks, 1999). The laws governing social service agencies and the dependency courts support interventions to protect the child when parental or familial efforts are insufficient to protect the child from harm and to monitor child welfare agency services. However, upon examination, these laws are complex and may even be contradictory. They present what some have called a “bewildering array of issues” to child welfare professionals who must implement them (Baumann, Kern, & Fluke, 1997, p. 1). Public Law 96-272 (Adoption Assistance and Child Welfare Act, 1980) requiring regular ongoing dependency court involvement in numerous aspects of all foster care cases represents the belief that only through court monitoring can children be assured of proper intervention and treatment.

The criminal code exists concurrently with child welfare law. Law enforcement seeks not only to protect the child but also to gather evidence for potential prosecution. The goal of prosecuting child maltreatment criminally is not necessarily to remediate, but to identify and hold the perpetrators of maltreatment responsible for their actions. Prosecution may be pursued both to control the offender and to render punishment. Such high profile cases as the People vs. Buckey notwithstanding (the McMartin

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