

## Chapter 11: Child Abuse and Neglect

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Most often when one thinks about juvenile justice, a picture of a delinquent child is imagined. Juvenile justice includes not only the children who victimize society, but also those children who are the victims themselves. The juvenile justice system by federal mandate must establish provisions for dealing with abused and neglected children. The Federal Child Abuse Prevention and Treatment Act (CAPTA), (42 U.S.C.A. §5106g), as amended by the Keeping Children and Families Safe Act of 2003, provides the foundation for identifying a minimum set of acts that define child abuse and neglect but each state has created their own standard for abuse and neglect.

Missouri defines child "abuse" as:

". . . any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse (210.110.(1) RSMo).

Missouri defines "neglect" as:

". . . failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being" (210.110.(12) RSMo.).

Missouri law further defines a child under these circumstances as:

"... any person, regardless of physical or mental condition, under eighteen years of age (210.110.(4) RSMo.).

Missouri law mandates that child abuse and neglect must immediately be reported to one of its 115 Department of Social Services Division of Family Services (DFS) offices for investigation and assessment. Failure to report is a class A misdemeanor. Mandatory reporting is required when the reporter has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect, or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect (210.115 RSMo.). Persons required to report are physicians, medical examiners, coroners, dentists, chiropractors, optometrists, podiatrists, psychologists, hospital and medical personnel that are engaged in the examination, care, treatment or research of persons, social workers, teachers and school officials, criminal justice practitioners, child-care workers, and most recently since 2002, due to the publicity and plethora of church sex abuse scandals, ministers.

For purposes of this statute, ministers are defined as persons practicing as a clergyman for any faith who have access to a child or are responsible for the care, custody, and control of a child (352.400 RSMo.). Specifically, Mo. Ann. Stat. § 210.115 requires any minister who has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions of circumstances that would reasonably result in abuse or neglect, to immediately report or cause a report to be made to the division of family services. Furthermore, "any legally recognized privileged communication . . . involving communications made to a minister or clergyman, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted, to cooperate with the division in any of its activities, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect" (210.140RSMo.).

Missouri law also has a permissive reporting provision that encourages relatives and neighbors who do not otherwise qualify as mandated reporters to report abuse if they have a reasonable cause to

suspect that a child has been or may be subjected to abuse or neglect or observes a child under conditions or circumstances which would reasonably result in abuse or neglect (210.115 RSMo.).

Despite the circumstances that make reporting of abuse difficult such as people not wanting to become involved in other people's family matters and a fear of retaliation, reports to the Missouri Child Abuse/Neglect Hotline Unit were substantial in 2005 with 56% made by mandated reporters, 29% by permissive reporters, and 9 percent made by unknown sources. Social workers, law enforcement officials and school officials were the primary mandated reporters accounting for 35% of all reports. Doctors, dentists, medical practitioners and day care providers provided less than 4% of all reported incidents. Per the Child Abuse and Neglect in Missouri Report for calendar year 2005, 54,108 total incidents were reported concerning 80,577 children. That figure represents approximately an 8% decrease in incidents reported since 2001.

Missouri's declining numbers of reported incidents of abuse and neglect are comparable to the national figures. Per the U.S. Department of Health and Human Services, Child Maltreatment 2004 Overview (Child Maltreatment Overview 2006), during the past 3 years, the rate of victimization has been decreasing. The rate of victimization per 1,000 children dropped from 12.5 children in 2001 to 11.9 children in 2004.

Furthermore, the categories of substantiated reported child abuse and neglect figures from Missouri reflect trends similar to the national figures. On a national level more than 60 percent of child victims were neglected by their parents or other caregivers. The Child Maltreatment Overview (2006) concludes that about 18 percent were physically abused, 10 percent were sexually abused, and 7 percent were emotionally maltreated. In addition, 15 percent were associated with "other" types of maltreatment based on specific State laws and policies (Child Maltreatment Overview, 2006). In Missouri the 2005 statistics for substantiated incidents revealed the following results: 47.9% involved neglect; 25.8% were categorized as physical abuse; 24.1% were reported as sexual abuse; 5.5% were listed as emotional maltreatment; 3.4% were labeled medical neglect; and 2% were posted as emotional neglect. It is noteworthy to mention that many children have demonstrated substantiated incidents in several categories of abuse and neglect including up to six categories (Missouri Child Abuse/Neglect, 2005). Hence, the totals exceed one hundred percent.

A further breakdown of each category of substantiated child abuse and neglect affords some interesting insights. For example, historical data revealed that 65% to 75% of all physical abuse involved injuries to the head neck and mouth; however, less than 0.2% of all child abuse/neglect reports came from dental professionals. Missouri attempted to address this issue in 1992 in its program entitled Prevent Abuse and Neglect through Dental Awareness (PANDA). The PANDA program provided educational awareness of family violence issues and prevention interventions. The program during its initial three years of operation (1992 – 1995) inspired dental reporting to increase more than 160% causing the American Dental Association to award PANDA its Golden Apple Award in 1993. Missouri's program has since been replicated by 46 states and several countries as of January 2004. In fact, in 2005 ten incidents of abuse/neglect came directly from dental professionals.

As demonstrated by the PANDA program, information concerning each category of abuse can be used to provide educational awareness and/or to identify, prevent or assist those who are victims. The National Child Abuse and Neglect Data System (NCANDS) is the federally sponsored effort that collects and analyzes the data pursuant to the direction of the U.S. Department of Health and Human Services (CAPTA, 1988 Amendments). Specifically, the Children's Bureau in the Administration on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services, collects and analyzes the data on a national level.

On the state level Missouri conducts its own collection and analysis of data and reports the information in its annual reports. Their data is used to measure the rates of incidents, to assess the need for services for budgetary planning, to evaluate or rate the appropriateness of its current programs and policies and to collect information on all children who were referred to the agency. Some of the areas of information collected concern the number of child fatalities reported per year, the characteristics of the families involved in substantiated incidents of abuse or neglect, and the demographical information related to the child victim and perpetrator. All of this information is collected with the hope of reducing the numbers of incidents and improving the services when such incidents occur. Furthermore, local trends can be compared to national trends so that causation, identification and/or treatment options can be assessed.

For example, per NCANDS an estimated 1,490 child fatalities occurred in 2004. During this same year Missouri reported 42 fatalities. NCANDS reported a slight increase in the rate of child abuse and neglect fatalities between 2001 and 2004 increasing from 1.96 per 100,000 in 2001 to 2.03 in 2004; whereas Missouri showed a slight decline in fatalities during that timeframe with 56 fatalities reported in 2001, 50 fatalities reported in 2002, 55 reported in 2003 and 42 reported in 2004. If the population remained the same, one could conclude that Missouri's efforts are succeeding in responding to risk related behavior through preventive and responsive practices.

In particular, one could assume that conclusion because Missouri has implemented and used a Child Fatality Review Program since 1986 (210.192 RSMo.). Plus, Missouri's child fatality review system has been acclaimed to be one of the most comprehensive systems in the nation providing an accurate account of each child's death as well as providing a standardized database to assist in identifying the causes and strategies necessary to prevent or reduce these tragedies. Thus, the use of a death review team which requires that any child under age 18 who dies from any cause must be reported to the medical examiner and the death reviewed for unnatural, unclear, unexplained, or suspicious cause indicators should preclude Missouri's underreporting of its child abuse fatality rates by attributing them to accidents or natural causes. For more information about the Child Fatality Review Program refer to Chapter 2 herein and the findings presented in the Preventing Child Deaths in Missouri, the Missouri Child Fatality Review Program Annual Report for 2005.

The characteristics of the families involved in substantiated incidents of child abuse and neglect have been collected and assessed in Missouri. The chart below shows the results:

Characteristics of Families Involved in Substantiated Incidents, 2005

| Characteristic                             | Number | Percent |
|--|--------|---------|
| Single Parent Household                    | 2146   | 36.9%   |
| Amenable to Services                       | 1973   | 33.9%   |
| Adequate living conditions                 | 1861   | 32.0%   |
| Lack of parenting skills                   | 1436   | 24.7%   |
| Stable family relationship/household       | 869    | 15.0%   |
| Extended family support system             | 808    | 13.9%   |
| Appropriate parenting skills               | 740    | 12.7%   |
| Heavy continuous child care responsibility | 726    | 12.5%   |
| Other drug related problems                | 506    | 8.7%    |
| Marital problems                           | 410    | 7.1%    |
| Domestic violence                          | 390    | 6.7%    |
| Insufficient/misuse of income              | 325    | 5.6%    |
| Recent/frequent relocation                 | 310    | 5.3%    |
| Recent loss/addition to household members  | 303    | 5.2%    |

|                             |     |      |
|-----------------------------|-----|------|
| New baby in home/pregnancy  | 296 | 5.1% |
| Community/cultural support  | 288 | 5.0% |
| Alcohol Related problems    | 279 | 4.8% |
| Loss of employment          | 217 | 3.7% |
| Crowded living conditions   | 202 | 3.5% |
| Dangerous living conditions | 179 | 3.1% |

The percentages may exceed 100% due to the ability to report up to four characteristics per incident (Missouri Child Abuse/Neglect Report 2005). With the characteristics of families involved in substantiated abuse/neglect incidents being thus identified, warning signs of risk may be noticed sooner, inappropriate behaviors can be recognized at the onset, preventive and treatment modalities may be assigned and implemented at earlier stages and change may occur such that the incident is avoided altogether or the impact is reduced.

Domestic violence is often associated with child abuse/neglect and it is listed on the chart above as one of the characteristics involved in substantiated incidents of abuse or neglect. In fact, the U.S. Advisory Board on Child Abuse suggests that domestic violence is the single most significant precursor to child abuse and neglect fatalities in this country (Danis & Klein, 2004). The Missouri Department of Public Safety collects information from its state's law enforcement agencies regarding domestic violence and found that in 2002 there were 36,633 incidents and in 2003 the figure increased to 36,988. The Missouri Coalition Against Domestic Violence (MCADV) also collects and publishes statistics each year reporting the number of incidents and the number of persons seeking assistance as a result of a domestic violence incident in Missouri. Their 2003 report revealed, among other things, that 5,436 women and 5,539 children received shelter but an additional 4,982 women, children and men were refused placement because the shelters were full (Danis & Klein, 2004).

Those figures alone are staggering and unsettling; however, when one considers that 50% of men who frequently abuse their wives also frequently abuse their children and that domestic violence is considerably underreported, large numbers of children are at risk of becoming victims. The F.B.I. reports that only one in seven victims of domestic violence report the incident to police (Danis & Klein, 2004). Statistics, both reported and unreported, clearly show that the risk of victimization is significant; but equally significant is the research that suggests that children who witness violence or experience violence in turn often exhibit long term effects including violence against others and other predictive problem behaviors (Danis & Klein, 2004). In fact, a Missouri study concluded that, "[b]oys who grow up in violent households are statistically more likely to become batterers than boys from non-violent homes" (Theisen, K. 2001).

What can be done to prevent maltreatment and protect victims is the issue or problem that society needs to address. The problem is further complicated when the victim involves a child and again when domestic violence enters the equation. The solution requires agencies to work together not at cross-purposes or independently of each other. In domestic violence situations, many times both a parent and the child need to be protected, not removed or separated from each other. The reflexive response to remove the child because the mother "fails to protect" may not resolve the situation. Both are victims and that knee-jerk response may preclude the mother from seeking assistance for fear that her child will be taken from her, thereby culminating in an underreporting situation. Victims of domestic violence need to know that they can both report the situation and seek assistance without fear of punishment. Both the child /victim and the parent/ victim need the support of each other, not alienation or banishment into the unknown.

Theisen, the Communications Director for the Bay Area Legal Aid Association commented on a publication produced by The National Council of Juvenile and Family Court Judges entitled, "Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice." (known throughout the field as the Green Book, due to the color of its cover), and stated that he believes that "[a] victim of abuse should be able to seek assistance and know she will receive assistance from child welfare agencies rather than punishment (Theisen, K. 2001). Theisen also believes that all the criminal justice agencies and systems, civil, criminal, educational, medical and law enforcement oriented must interact in a manner towards "helping the survivors of violence assist their children and making the perpetrators of domestic violence accountable for their actions" (Theisen, K. 2001). This requires that the perpetrators are punished not the victims. At the very least, to assure safety, adequate housing and services need to be made available.

To further complicate this matter, domestic violence related abuse often requires different approaches and different protocols than other abuse situations. At the very least it requires further training, a more in depth study of the family dynamics and a careful review and assessment of the total situation before the use of normal practices should be pursued. For example family and marital counseling with both parents being present may be inappropriate in domestic violence cases due to the imbalance in the family dynamics. The perpetrator often possesses a powerful presence or hold over the victim. The victim may be inclined to either agree with the perpetrator or say nothing rather than risk later reprisals, abuse or condemnation. Interviews of the victim may need to be conducted out of the presence of the parent/perpetrator. Furthermore, placement with relatives will need further screening or assessment due to the relationship between the relative and the perpetrator. Not only is domestic violence deemed to be inter-generational, which causes its own concerns; but also, the relatives may allow contact between the victim and the perpetrator that would not be authorized. Finally training is needed to effectively prepare personnel and agencies for dealing with these situations (Danis & Klein, 2004).

Missouri's Department of Social Services, Children's Division has established procedures which it believes enhances its efforts in dealing with abused and neglected children. Specifically, the procedures for handling child abuse/neglect complaints in Missouri require that an investigation and assessment must be initiated immediately or within 24 hours if the allegation indicates that the child is in imminent danger. If the complaint involves past abuse or educational neglect, the investigation and assessment may begin within 72 hours. All investigations and assessments are to be concluded within 30 days. The investigation involves the collection of evidence and the assessment includes the recommendation as to whether community-based services are needed to reduce the risk of abuse and neglect and to support the family.

Missouri currently follows a formal policy while investigating abuse/neglect incidents so as to best meet their stated mission, "[t]o maintain or improve the quality of life for the people of the state of Missouri by providing the best possible services to the public, with respect, responsiveness and accountability, which will enable individuals and families to better fulfill their potential." This formal policy helps to assure that accurate figures are obtained from which research as to causation and prevention factors may be gathered. Previously, although there were formal policies and protocols in place governing the investigation of referrals concerning abuse/neglect, wide variations existed among the Missouri counties in deciding which reports were investigated and which were assigned to Family Assessment. This variation made comparisons across counties difficult so the Division of Family Services introduced a structured decision-making model in 1995 that would serve to reduce this disparity (Danis & Klein, 2006).

The new protocol or structured decision -making model used currently provides that hotline calls involving allegations of less severe abuse or neglect are each assigned to "Family Assessments." Then each of these referrals are evaluated based on the family's strengths and a determination as to which services are needed to improve the child's safety. There are three possible conclusions to each

investigation. The first is a finding that abuse/neglect has occurred based upon the preponderance of the evidence. This finding is referred to as substantiated. An unsubstantiated finding occurs when no evidence of abuse/neglect is revealed and no identified specific threat is found. The third finding occurs when there is insufficient evidence of abuse/neglect, but the social worker determines that there are indicators that the child may be harmed if the issues are unresolved. This determination results in a finding entitled, unsubstantiated- preventive services indicated.

The 2005 Annual Report revealed that 10.7% of the reported incidents were substantiated, 4.5% were unsubstantiated but preventive services were indicated, and 21% were unsubstantiated. Additionally, 57.5% were assessed as needing family services and 6.3% fell into a category where the department set the family up with services, but the department would not be involved in follow-up visits. The 10.7% of the incidents reported as substantiated, involved 8,158 children (Missouri Child Abuse/Neglect 2005).

The 2005 Annual Report also provided detailed insight into the child abuse/neglect situation. Typically, child abuse is thought of as a repetitive problem. The figures reported bear this out. During the year, 47,355 children were reported as victims. 12,600 of those children were reported as victims more than once and 428 of those children were reported as victims five, six or seven times.

Missouri is currently researching the need to establish new procedures to separate false and malicious child abuse claims and referrals made to its Child Abuse Hotline from legitimate ones. Investigating and assessing false claims have the potential of overburdening the system and resulting in unnecessary expenditures of state monies. Recent allegations have suggested that feuding parents are misusing the hotline and clogging the system (Missouri Hotline Issue, 2006). To date no new procedures are in place as no statistics realistically or actually support this claim. Missouri has not seen a significant spike in permissive reporters of abuse. In fact the statistics show a relatively stable rate of reporting between mandatory reporters, permissive reporters and unknown reporters over the last five years. The chart below shows the rate of reports made to the Abuse Hotline in Missouri by year (Missouri Hotline Issue, 2006).

Reports to Missouri Child Abuse Hotline

| Year | Mandatory | Permissive | Unknown |
|------|-----------|------------|---------|
| 2005 | 56%       | 35%        | 9%      |
| 2004 | 56%       | 29%        | 15%     |
| 2003 | 54%       | 28%        | 18%     |
| 2002 | 54%       | 28%        | 18%     |
| 2001 | 53%       | 42%        | 5%      |

Until there is evidence that a significant number of permissive reporters are making false claims, the Program Director of the Children’s Division of the Department of Social Services believes that Missouri should not make any changes within its reporting procedure. She believes that the state should err on the side of protecting the child and thus, it should investigate and assess each hotline referral Missouri Hotline Issue, 2006). To date this claim of fraudulent reports is still being investigated, so no new procedural changes have been discussed or proposed.

Abuse and neglect situations do not always involve a specific instance or one traumatic event. Sometimes, like in domestic violence situations, emotional neglect, medical neglect and educational neglect situations, the abuse or neglect involves a pattern of repetitious acts or failures to act. The Missouri’s Children’s Division has several programs designed to provide treatment and to help reduce the

possibility of these types of child abuse and neglect occurrences from happening. The Truancy Project discussed in Chapter 9 herein is one example. The St. Louis Truancy Court project was designed to intervene with elementary and middle school students displaying a pattern of absenteeism before the situation became a Family Court matter as a violation of Missouri's mandatory school attendance (Chapter 167 RSMo 1994). Their program targeted at risk for referral students who missed between ten and thirty days of school in the previous academic year. The program is voluntary and professes positive results (Truancy Initiative Project).

Another example includes crisis nurseries. Missouri first funded crisis nurseries in 1993 so as to provide services for at risk children. Currently there are nine facilities in Missouri that protect children by providing a safe environment at high risk/need moments when the chances of abuse/neglect in a home are increased. This is a totally voluntary service that typically provides short-term emergency shelter for children whose families are faced with an emergency or are in crisis due to domestic violence, overwhelming parental stress, a lack of utilities, food or shelter or the like. The average stay amounts to two or three days, but each family receives information about ongoing services, counseling and programs that may be of further use to their situation (St. Louis Crisis Nursery).

The Children's Division also provides other family centered services to further prevent future occurrences of abuse/neglect. These services include substance abuse treatment, job training, education, child care, parenting classes, counseling, medical treatment and other services to strengthen the family and promote changes concerning the conditions that either brought them to the attention of the agency or places them at risk for becoming involved in the juvenile justice system. Some of these services are provided by the Children's Division and some are purchased from community agencies like day care services, mental health counseling, respite care and homemaking services.

A Child Abuse/Neglect Review Board that consists of private citizens appointed by the governor oversees the operation of the Children's Division. If the perpetrator of abuse/neglect disagrees with the Children's Division's conclusion, he/she may appeal unless convicted of the charges criminally. During 2005, the review board heard 237 cases upholding 54% of the Division's conclusions (Missouri Child Abuse/ Neglect 2005).

Further, Missouri has a statutorily created Office of Child Advocate for Children's Protection and Services (RSMo. 37.700 et seq. 2004). The purpose of the office is to provide individuals with an independent and impartial review of disputed actions or inactions of the Missouri Department of Social Services. This agency receives and investigates complaints, it educates the public regarding the child welfare process within the state and provides an annual report to the governor and chief justice including recommendations for improvements in the system. The Office's official mission statement is to advocate for children. To see faces, not cases. Thus, the Office seeks to "foster accountability within the structure of state government" while "acknowledging that the government cannot be expected to provide exhaustive answers to all the complex and often difficult circumstances of life" Morrow, S. Child Advocate Report, 2005-2006).

From September 1, 2005 until August 31, 2006 the Office received 206 complaints involving 324 children. Upon receipt of each complaint, it determines the level of investigation needed, from none, to gathering information and interacting as needed with the parties, to reviewing the case file, to finally conducting an on-site investigation. Most investigations are completed with a 30 -day time period. Most of the complaints come from the biological parents, with grandparents the second highest source and foster parents the third. The complaints center around child safety, family separation and reunification, and dependent child health, well- being and permanency (Child Advocate Annual Report 2005-2006).

Besides investigating complaints, another equally important function is to provide recommendations for improvements and to facilitate greater communication about positive developments and programs occurring within the system. In the 2005 -2006 Report several positive programs were featured. Missouri's Adoption Heart Gallery was one. This project features photographs of children who are hoping for and awaiting adoption in Missouri. Similar programs have been successful in other states and Missouri is anticipating that the approach employed in St. Louis, Kansas City, and Springfield will be expanded and result in the placement of children in permanent homes.

Another policy commended in the 2005-2006 Report involved a visitation work group. The purpose of this policy is that by using a work group as opposed to relying on an individual child service worker, parental and sibling visitation would not need to be cancelled or rescheduled due to the unavailability or particular situation of the child's service worker. Another team member or work group participant could monitor the visitation so that the visitation aspect of the reunification procedure could move forward as scheduled.

Since the inception of juvenile court in Missouri, a number of positive changes have come about concerning the welfare of abused and neglected children. The children are housed separately from their criminal/delinquent counterparts, they are treated with more dignity and more respect for their individual rights. Services are continually being developed and employed as research dictates. There is a greater partnering with other agencies and service providers to minimize the trauma and to streamline the results. The process itself is more individualized, unique and creative to meet the needs of each child from immediate intervention to discharge. The system utilizes trained professionals who are more qualified than ever to assure that the needs of the child are met. Missouri has come a long way, yet the state does not appear to be resting on its laurels.

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U.S. Department of Justice at [www.ojp.usdoj.gov/bjs/homicide/homtrnd.htm](http://www.ojp.usdoj.gov/bjs/homicide/homtrnd.htm).

### **Review Questions**

1. Discuss the two processes by which a complaint referral is handled within the juvenile justice system concerning abuse/neglect.
2. Explain how domestic violence impacts the juvenile justice system in terms of not only numbers of victims, but also the manner in which those cases can be processed.
3. Review the national statistics to determine how Missouri stacks up regarding the types of abuse/neglect, the frequency of abuse/neglect and the ability to deal with the crisis situation in an effective and efficient manner.
4. To what extent do you believe that false reports are made to the Abuse Hotline and are there proper procedures in place to deal with these false reports?
5. Knowing the characteristics of families involved in substantiated incidents of abuse/neglect, what programs or services do you believe are most appropriate for handling each of the characteristics?
6. Should programs such as Truancy Court and Crisis Nursery be voluntary or involuntary? Would a change in practice facilitate better results or hinder the program's success?
7. Discuss some of the positive and negative effects of the Child Fatality Review Teams on individual families and society. What else can be done to prevent child fatalities due to abuse/neglect?