The Juvenile Court and Dependency Cases

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Abstract

Most child abuse and neglect reports do not reach the juvenile court. However, those that do constitute a significant and demanding portion of the court’s workload. These cases are often the most serious and require intense efforts at preserving the family and a temporary or permanent change in custody for the child. The children involved are increasingly very young and have histories of repeated contact with the child welfare system. The limited available data about the effectiveness of the court and child welfare system’s response to these cases are reviewed in this article and show that improvement is needed in protecting children and ensuring safe and stable placements for them.

The juvenile court sits at the end of a rapidly moving stream of reports of child abuse and neglect. Only a portion of all incidents of child abuse and neglect are actually reported to child protective services or law enforcement. In about two-thirds of these instances, the report is investigated and a file is opened. Most child abuse and neglect cases are handled by child welfare agencies without the court’s assuming jurisdiction over the child. This article provides a snapshot of this flow of child abuse reports and cases.

Data about child abuse reports and response to them can help quantify the problem of child abuse and neglect and describe the work of the child welfare system. But data are also critical for beginning to measure the effectiveness of the system’s response. Such information is essential for juvenile court judges as they evaluate their own handling of child abuse and neglect cases, as well as work to improve the efforts of their local law enforcement and child protective services.

Unfortunately, comprehensive and reliable data about child abuse and neglect reports and resulting juvenile court cases are not currently available. There are, however, beginnings of a national system for data collection, as well as some in-depth studies in particular states and locales. This article relies on these imperfect data sources to begin to describe the reports made and the system’s response to them through in-home services and out-of-home care.
Child Abuse and Neglect Reports

All states require specified groups of child-serving professionals to report suspected child abuse to local police or child welfare agencies. In 1976, child abuse reports were made on 1% of American children; by 1994 that number had risen to 4%, representing a 1994 count of 2.9 million children. The rate of growth in reports has slowed sharply in the 1990s, averaging just 1.6% per year in contrast with the periods from 1976 to 1980, when the growth rate was 20% per year, and from 1980 to 1989, when the annual growth rate was 13% (see Figure 1).

About half (53%) of the children about whom a child abuse report was made in 1994 were reported as neglected. Physical abuse was the primary reporting reason for 26%; sexual abuse accounted for 14%. All other types of neglect and abuse (for example, medical neglect, emotional maltreatment, and abandonment) constituted an additional 26% of reports. These percentages have remained relatively consistent over recent years.

In 1994, as in recent years, about 57% of reports concerned children who were white, 26% African American, 9% Hispanic, 4% unknown, 2% Native American, and 2% of other racial backgrounds. As shown in Figure 2, these proportions are sharply different, especially for African-American children, from those reflected in the national census data on the races of America’s children. No clear conclusion can be drawn about African-American children’s higher likelihood of reports. Although both Hampton and Neuspiel and colleagues suggest that similarly situated African-American families are more likely to be investigated than other families, measurement problems undermine researchers’ efforts to control for other case characteristics that could explain different outcomes. There is, however, some evidence that African-American children, once reported to the system, are less likely to receive the full extent of protective services received by other children.

Substantiated Reports

Once reports are received by child welfare agencies, they are either (1) closed as unfounded or inappropriate for the agency to investigate or (2) investigated through phone calls and site visits. Investigations typically result in the general categorization of reports as substantiated, not substantiated, or indicated (that is, there is good reason to suspect abuse and neglect, but there is insufficient evidence to substantiate the maltreatment). Of the 2.9 million alleged abuse or neglect reports that were filed in 1994, about 1.6 million led to investigations. Approximately 1 million reports were found to be substantiated or indicated.

If a report is determined to be substantiated or indicated, the responsible public child welfare agency decides whether to offer voluntary services to the family to help them avoid further abuse and neglect or to petition the local juvenile court to take jurisdiction over the child and order an alternative placement for the child and/or services for the family. (See the article by Hardin in this journal issue for discussion of these alternatives.)

Reoccurrence of Abuse

How well does the system evaluate child abuse and neglect reports and protect children? Unfortunately, data show that a child abuse report does not always trigger sufficient services even to protect a child’s life. In a study of 11,000 births in Washington State, those children reported to the state child abuse registry were three times as likely to die at some later point as children than their counterparts in the general population.
Reports of physical abuse were most likely to be followed by death, but risk was also higher for children who were neglected or sexually abused. The U.S. Advisory Board on Child Abuse and Neglect reports that abuse and neglect in the home is a leading cause of death for young children and that thousands of children who die from fatal child abuse are known to doctors, police, eligibility workers, therapists, and other professionals.8

However, recent data from a four-county study in California show that a second report of abuse occurred in one-third or fewer of the cases studied over a three-year period from 1990 to 1993. Overall, about one in six cases that were opened at the first report had second reports during the study period.9 However, fewer than 5% of those cases not opened on the first report had one or more opened cases later on. Two-thirds of young children (0 to 5 years of age) who had been the subject of a first child abuse report between 1990 and 1993 were not subject to a second one during that time.

**System Response to Reports**

**Court Involvement**

Data on the likelihood that a child abuse report will be presented to the juvenile court are scarce. The developing national data systems do not currently include such information. Some data from studies in local jurisdictions suggest that the vast majority of reports do not result in the court becoming involved. Tjaden and Thoennes10 report that dependency petitions were filed in 21% of the substantiated cases they reviewed in Denver, Los Angeles, and New Castle County, Delaware. In some locales, as few as 3% to 4% of all child abuse and neglect reports (substantiated and not substantiated) end up as court cases.11

**In-Home Services**

The Adoption Assistance and Child Welfare Act of 198012 required due process and reasonable time-limited preventive services for parents whose children were at risk of placement into out-of-home care and rehabilita-
tive services for those parents whose children had been placed. Nationally, nearly half of the 1,000,000 children served in 1994 are estimated to have received services in their own home, whereas in 1977, nearly 72% of the 1.8 million children provided with services received them at home.\textsuperscript{13} For example, in California in 1994, more than 50,000 children received in-home “family maintenance” services (which are generally shorter than six months), whereas about 28,000 entered foster care for the first time during that year.\textsuperscript{14} Little systematic evidence is available about the use and effectiveness of in-home services in preventing or shortening placement. The reasonable efforts requirement is increasingly met by family preservation services, that is, more intensive, time-limited in-home services to the whole family. These have become much more widely available in recent years, given the influx of foundation and federal dollars.

Outcomes

The well-being of children who remain at home following some version of in-home services is little understood. The evidence concerning their outcomes is mixed, with considerable indication that in-home services are helpful to the families served but that they do not have a substantial impact on the prevention of foster care placements.\textsuperscript{15,16} In the massive evaluation of the Illinois Family First program, 39% of the children who received intensive family preservation services and remained at home had a subsequent substantiated child abuse report; there was no difference between the family preservation and conventional services control group on this outcome.\textsuperscript{15} About 32% of all families experienced placement of one or more children within two years after in-home services. An emerging consensus is that such services need to be longer than once thought and used as an intensive family support program to families that would not otherwise be placed.\textsuperscript{15}

In-home services are often first tried when perinatal drug exposure is the basis for a child abuse report. In Illinois, more than 40% of all child abuse reports involve substance-exposed infants. About 10% of these infants come into care soon after birth, and about 30% ultimately end up in foster care.\textsuperscript{17} In 1992, more than half of all the children in

\begin{figure}
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\caption{Race/Ethnicity of Reported Victims of Child Abuse and Neglect}
\end{figure}
Illinois who entered foster care because they were substance exposed entered after they were one year old. They had been screened at birth as substance exposed but sent home and later came into care because of subsequent abuse or neglect. The out-of-home care census has been increasing for the past decade with the period from 1983 to 1987 characterized by 2% growth, the period from 1987 to 1990 having an accelerated growth rate of about 8%, and the past few years having a growth rate of 4% (see Table 1). Since 1990, entrances into out-of-home care have declined in real terms, but the rate of decline in the exits from care has been greater.

### Table 1

<table>
<thead>
<tr>
<th>Year (FY)</th>
<th>Foster Care Population</th>
<th>Entrances</th>
<th>Exits</th>
<th>Net Change</th>
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<td>1982</td>
<td>262</td>
<td>161</td>
<td>172</td>
<td>-11</td>
</tr>
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<td>269</td>
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<td>6</td>
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<td>445</td>
<td>230</td>
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Out-of-Home Care

Sometimes a child can be protected only if removed from the custody of the parents and placed in some form of out-of-home care. This can happen on a voluntary basis, but most often the juvenile court is involved. Out-of-home care is typically referred to as foster care. Foster care is a term used to refer at times to kinship foster care (placement with relatives under the supervision of child protective services), nonkinship foster care (placement with a foster family not related to the child), and group care (placement in a licensed residential treatment facility, even if it is operated by a family). Few states’ data systems distinguish among children placed in each of these types of out-of-home care. When data are presented regarding children in foster care, they may include all of these subcategories. In this article, out-of-home care refers to all types of out-of-home care under the supervision of child protective services unless otherwise noted.

A number of studies show the decline in entrances into out-of-home care. National data regarding the unduplicated count of children who were subject to a child abuse report show that 7% of reports in California resulted in out-of-home care placement, 10% in Illinois, 5% in Michigan, 8% in New York, and 4% in Texas. In four counties in Colorado, the likelihood that a child abuse report would result in out-of-home placement ranges from 1% to 6%. In states with data on substantiated cases in 1993, the proportion that subsequently entered out-of-home care in that year ranged from 19.6% in Texas to 58.9% in Michigan. In the past decade, the age of children being placed in out-of-home care has...
declined dramatically. Nearly one-quarter of all children entering out-of-home care are infants (younger than one year), and many of them are drug exposed. Infants comprise nearly 25% of all entrances into out-of-home care, tend to remain in care longer, and tend to reenter care more often. More broadly, the incidence rate of admissions to out-of-home care for young children (ages 0 to 4 years) is now twice what it is for children 5 to 17 years of age.

Out-of-home care prevalence rates vary from nearly 1.4% of all children in New York to 0.2% per thousand in Texas. Children younger than 5 years old have prevalence rates higher than those for children 5 to 17 years old. Another equally striking characteristic of contemporary out-of-home care is that African-American children are so commonly in this care. In 1990, in several states (for example, California and New York), more than 4% of all African-American children were in out-of-home care; in Illinois and Michigan, the prevalence rate exceeded 2% and 1%, respectively. The prevalence rates were considerably lower for other ethnic groups.

Outcomes
The goal of out-of-home care is to provide safe and stable custody for the child on a short-term basis while services are provided to the family to make safe return to home possible. This out-of-home care is supposed to be time limited (one to two years), resulting in either return of the child to his biological family or permanent placement of the child in an alternative custody arrangement, preferably adoption or guardianship. Thus, data about length of time in out-of-home care and the stability, safety, and quality of out-of-home care are critical to measuring the effectiveness of the system in meeting these goals. Yet, here too, data are very limited.

When children are placed in out-of-home care, the vast majority of them (in excess of two-thirds) will return home, although more than half will remain in care for at least 18 months in California, 35 months in Illinois, 12 months in Michigan, 25 months in New York, and 9 months in Texas. In all of these states except Illinois, 25% of children will leave care within 5 months. Thus, for one-quarter of the children placed in out-of-home care, their stays in foster care are relatively short; yet for at least half, they are quite extended. In California, about one-fourth of all young children entering nonkinship foster care will not have been reunified or adopted after six years in foster care.

Out-of-home care is often unstable. Children in nonkinship foster care move more than children in kinship care; among children in nonkinship foster care with open cases at the end of six years, 34% had had five or more placements compared with 4% of children in kinship foster care. Even very young children in nonkinship foster care have multiple moves, and these continue to accelerate during their stays in foster care. In California, about 6% of children who entered nonkinship foster care as infants and remained for two years had five or more placements, whereas more than 17% of infants who remained for six years had five or more placements. Among children who entered nonkinship care between the ages of 6 and 12, 46% had six placements by the end of six years in care.

Because children are placed in foster care to protect them, foster care must be safe. About 1% of all child abuse reports made each year are made on foster parents, and another 2% of reports are made on residential facility staff. Foster care does appear to provide protection against early death, especially for African-American children.

Another critical question is whether children are safe when returned home. According to investigations in California and New York, children who leave out-of-home care are returning in substantial numbers, including younger, more vulnerable children. About one in four children who go home as infants, in California, are returned to out-of-home care within the next four years. Children who return home from foster care within the first six months of

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placement are more likely to return subsequently to foster care. An early reunification from foster care to the biological family does not indicate that these families have fewer problems or that children will be safe.

**Kinship and Group Care**

- **Kinship foster care.** Kinship foster care has grown substantially in the past decade, and now at least 40% of all days in care are spent by children living with their relatives. In California and Illinois, as well as in other states, most days spent by children in foster care (that is, excluding children in group care) are spent in kinship foster care. Children in kinship care are more likely to have long spells in this care, relatively stable placements, and lower reentry rates if they do return home.

  Whether or not children remain in kinship or nonkinship foster care and the type of exit they experience depends substantially upon race, with African-American children having spells in foster care that are about 25% longer than those of other children after controlling for age and geographic region. In California, among young children placed into foster care in 1988 at the age of six or under who were in nonkinship foster care and did not get reunified, African-American children were one-half as likely as Hispanic children to be adopted and Hispanic children were half as likely as white children to be adopted. Among children in kinship care, the likelihood of adoption was about one-third of that for children in nonkinship care for Hispanic and white children, and one-fifth as high for African-American children. Among young children six years after placement in foster care, approximately 27% of children in kinship care and 23% of children not living with kin remain in care. About 7% of children placed in kinship care were adopted, and 21% of children in nonkinship care were adopted (see Figure 3).

- **Group care.** There are nearly 7,000 residential facilities in the United States with an estimated capacity of nearly 125,000 children. The size of group care facilities varies markedly across the states, with California housing an average of 9.4 children per facility and Alabama, Connecticut, Nebraska, and Texas among states reporting an average of 34 or more per facility. The proportion of children served in group care has been relatively stable during the past decade, ranging from 11% in Illinois and Michigan to 15% in California and New York to 33% in Texas.

  There is little systematic evidence about the lengths of stay for children in group care, although data from California show that children who entered group care when they were younger than six, when compared with young children in nonkinship foster care, are more likely to remain in care (31% versus 25%) four years after placement. Median stays in group care are not short for children of any age, with the longest median stays being 86 weeks for children who enter foster care between the ages of 6 and 12, and 73 weeks for infants. Half of the children who enter group care stay more than one year.

  Stays in group care are characterized by considerable instability, as more than one-third of children who entered group care
Figure 3

California Outcomes for Children in Kinship and Nonkinship Care at Two, Four, and Six Years After Placement by Age at Entry

Sample consists of all young children who first entered foster care between January 1 and December 31, 1988. Bars may not total 100% due to rounding. Age represents age at entry.

younger than three years and more than two-thirds of children who entered older than three had three or more placements during their tenure in care. This research, however, provides little information about the presenting problems of children which may explain, in part, this instability. The evidence of long stays and multiple placement moves for young children is, nonetheless, not encouraging.

**Major Trends and Conclusions**

Children who come to the attention of the juvenile court are likely to be younger than five, live in families affected by drugs and alcohol, and have experienced substantial screening by child protective services before coming to the court’s attention. For many, there already has been a history of child abuse reports and investigations that did not result in court review. When children are provided with court protection, the likelihood is greater now than in the past that they will receive intensive in-home services, but these services may only delay a later placement in a substantial number of cases. Although the child welfare system has begun to offer more varied service options to families, it continues to struggle with the choice of providing either in-home services that may be too short to provide substantial protection to children or out-of-home care, which often becomes long-term and leaves children without a permanent family. The substantial rates of reabuse, reentry into foster care following reunification, and the lack of permanency for many children after extended stays in care indicate that the available options are often inadequate or misused. Federal and state laws still have not been able to create a child welfare system that can reliably promote timely and safe havens for abused and neglected children.

The juvenile court’s leadership is needed to ensure that children do not linger in unsafe or impermanent circumstances. The evidence is clear that a large proportion of children are not in permanent placements at the end of two years or even four years. Many young children in foster care, whether living with relatives or not, will reside in long-term foster care for nearly all of their lives and will change homes frequently. The juvenile court has substantial responsibility to use no more than the two years allowed to expeditiously decide on a permanent plan so that every child will be home or in a legally permanent alternative home within two years of the child’s first day of custody. To accomplish this requires, at minimum, a disciplined relationship with child protective services, parents, and all other parties to eliminate most continuances and to promote concurrent planning for reunification and adoption for children who are least likely to go home.

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1. In most communities across the country, instances of child abuse and neglect are reported either to the child protective services agency or to law enforcement. These agencies investigate the reports. If a criminal case against an adult for child abuse and neglect is pursued, law enforcement and local prosecutors stay involved. Otherwise, child abuse and neglect cases are typically handled primarily by child protective services and the juvenile court.

2. For a good discussion of the major national data sources and the difficulties in collecting child abuse data, see Lewit, E.M., Child indicators: Reported child abuse and neglect. *The Future of Children* (Summer/Fall 1994) 4,2:233–242. For a review of the nearly nonexistent national adoption data, see Stolley, K.S. Statistics on adoption in the United States. *The Future of Children* (Spring 1993) 3,1:26–42. Whittaker and Pfeiffer recently reviewed the research on residential group child care and showed that related research may be the most limited of that available for any child welfare service program. Whittaker, J.K., and Pfeiffer, S.I. Research priorities for residential group care. *Child Welfare* (1994) 73:583–601. The most promising advance in the development of child welfare data is that data can now be analyzed on the individual level in at least five large states (California, Illinois, Michigan, New York, and Texas) as part of the multistate data archive effort led by the Chapin Hall Center for Children in Chicago, Illinois. More detailed analyses are available within some states and jurisdictions from administrative data or case reviews. The very idiosyncratic nature of child welfare services makes broad generalizations from these studies suspect, but they are worth consideration when they raise questions that bear review in each jurisdiction.


11. The Administrative Practices Improvement Project in Santa Clara County, California, found that, in 1993, of 24,454 reports received, 22,437 (91.8%) were closed at intake, 1,142 (4.7%) resulted in voluntary services to the families, and 875 (3.6%) resulted in a petition to the juvenile court to take jurisdiction. For additional information about this project, call John Oppenheim, Chief Deputy Director, Social Services Administration, at (408) 441–5666.


21. Texas has a far smaller number of children in kinship foster care which lowers their prevalence rate.


23. See also Jellinek, M.S., Little, M., Benedict, K., et al. Placement outcomes of 206 severely maltreated children in the Boston juvenile court system: A 7.5-year follow-up study. *Child Abuse & Neglect* (1995) 19:1051–64. In this study, the plan after seven years for two-thirds of
the children was adoption or other permanent placement. Despite this plan, 21% were still awaiting a permanent placement.


29. Texas’s proportion of children in congregate care is higher relative to other placements because they do not have a relative foster care designation and have a very low prevalence of children in out-of-home care. Goerge, R.M., Wulczyn, F.H., and Harden, A.W. An update from the multistate foster care data archive. Chicago, IL: Chapin Hall Center for Children, 1995, note no. 19.