

## SECTION V

# New Directions for Child Victims

**E**ach year in America, millions of children directly experience or witness violence in their homes, neighborhoods, and schools. The impact of such crime and violence on our nation's youth is undeniably profound. This section addresses the unique needs of child victims and outlines the legal rights and protections that have emerged at the federal and state levels in the areas of child physical and sexual abuse, child abduction, and other types of crimes against children. It reviews the long-term impact of crime on child victims, and presents examples of programs and services that have been developed across the nation to address the health and mental health needs of child victims, and to help them through the criminal or juvenile justice process in sensitive and comprehensive ways. Such services include children's advocacy centers, court-appointed special advocates, and other multidisciplinary approaches. It also contains a number of recommendations designed to improve services for child victims such as replicating promising practices in other communities, specially training all professionals who come in contact with child victims, and enhancing data collection and research initiatives in the area of child victimization.

## CHAPTER 17

# Child Victims

Each year, hundreds of children write to the President, the First Lady, and the Attorney General about being abused. In graphic detail their letters chronicle the physical, sexual, and emotional abuse inflicted on our nation's children. They ask to be protected. They ask for police officers and judges to intervene. They harbor hope that somebody who is "in charge" will help. One such letter was sent to the President in 1996 by an 11-year-old victim:

Dear Mr. President,

I would appreciate if you would read this letter at your next meeting. . . . I myself have been molested by my step-grandfather for almost two years. Right now I have to talk to a detective about it, I'd rather be put in jail for twenty years. It hurts. I would like to know why I have to go through so much pain by talking about it over and over again and have to draw pictures and show places on dolls. How come I'm being put through such pain when I did not commit a crime? I just want to know why kids are being hurt over these things. I want to make a big point—Kids are being hurt.

The 1980s witnessed the emergence of many new legal rights and protections for child victims. Nationally publicized cases involving child abduction, sexual abuse, and chronic physical abuse leading to death gave the nation and its legislators a wake-up call to the plight of abused children. Much of the legislation that followed focused on protecting children from abuse and reducing the trauma of children participating in the criminal justice system.

The 1982 *Final Report* of the President's Task Force on Victims of Crime voiced a special concern for child victims of sexual abuse, calling for a response to child victimization in two general areas: (1) protecting children through legislation requiring or permitting child-serving institutions and agencies to check for criminal records of prospective candidates for employment or volunteer positions, and (2) treating child victims with sensitivity by calling on prosecutors and judges to recognize "the profound impact that sexual molestation and sexual violence has on young victims and their families and to treat it as a crime that should result in punishment, with treatment available when appropriate."<sup>1</sup>

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*I would like to tell you about people that abuse their children then as their children get older, they abuse children. Well I'm one of those children. My father started abusing me when I was six years old. Then when I was thirteen I started to abuse other children. I'm now in a treatment center for what my father did and for what I did.*

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A child abuse victim

Since 1982, the change in the nation's awareness of the impact of crime on children has been dramatic. Research efforts have examined various aspects of child victimization, including the long-term mental health impact on children who experience and witness violence; the motivations of perpetrators who prey on children; the family dynamics of intra-familial child abuse and neglect; and effective responses of professionals in the social service, health, mental health, and criminal justice systems. Overall, greater attention has been given to all forms of child victimization, including sexual and physical abuse, neglect, exploitation, abduction and psychological or emotional abuse.

While a decade ago "stranger abductions" were believed to be among the greatest threats to children, it is now well documented that of the thousands of children each year classified as missing or abducted, parents, not strangers, are responsible for the vast majority of child abductions.<sup>2</sup> Moreover, the largest category of missing children today are runaway, throwaway, and homeless youth, a substantial number of whom have been victims of prior physical or sexual abuse in their homes. Their life on the streets continues this pattern of violence.

Over the past decade new manifestations of child victimization have emerged. Advances in technology now present serious threats and potential harm to children. Video cameras are increasingly used to produce homemade child pornography. Personal computers equipped with scanners and access to the Internet are used to instantly disseminate child pornography worldwide and to solicit children for sexual encounters.

Research is also revealing new information about the intergenerational cycle of violence. A link between early victimization and later involvement in violent crime has been identified, although additional research is needed to understand fully why some abused or neglected children become violent, while the majority do not.<sup>3</sup> New data is also showing that witnessing violence in the home and community adversely impacts a child's mental health and development, including an increased likelihood in some children to become directly involved in violence, whether as victims or perpetrators, as they mature.

While substantial legislative changes, research, and funding has been dedicated to child victimization, one frustrating fact has not changed since 1982—the lack of accurate data on the extent of child victimization in America. In 1997, there is still no national repository of all child victimization statistics, meaning the nation lacks precise data on the number of children who are victimized each year.<sup>4</sup> Without accurate data, the national debate often turns to the accuracy of the numbers rather than focusing on the problem itself.

In spite of the lack of exact data, recent statistics on child victimization suggests it is a crisis of national importance. Each year in America it is estimated that:

- 1 million children are substantiated victims of abuse or neglect.<sup>5</sup>
- 130,000 children are sexually abused.<sup>6</sup>
- 2,000 children die as a result of abuse or neglect.<sup>7</sup>
- 450,000 children are considered runaways.
- 127,100 children are considered “throwaways.”
- 354,100 children are abducted by parents.
- 3,200 to 4,600 children are abducted by strangers.<sup>8</sup>
- 3 million children witness violence in their homes.<sup>9</sup>
- Large proportions of inner-city children witness violence in their communities.<sup>10</sup>

### **Federal Legislation and National Programs**

A review of the legislative initiatives and national programs of the past three decades shows that the recommendations of the President’s Task Force to increase rights and protections for children have been met and exceeded.

- In 1974, the Child Abuse Prevention and Treatment Act established the National Center on Child Abuse and Neglect within the Department of Health and Human Services to assist professionals who work with children who have been physically or sexually abused or neglected. The Center supports the National Clearinghouse on Child Abuse and Neglect Information and a national data archive.
- In 1978, the American Bar Association launched the ABA Center on Children and the Law to improve children’s rights, the response of court systems, and the quality of legal work in child protection cases. Among its programs, the Center operates a National Child Welfare Resource Center on Legal and Court Issues supported by the U.S. Department of Health and Human Services.
- In 1984, the Missing Children’s Assistance Act established a clearinghouse and national resource center dedicated to helping exploited children—the National Center for Missing and Exploited Children. Since its creation, the Center has handled more than 1 million calls to its 24-hour hotline, distributed millions of publications, and provided advice and technical assistance to thousands of parents, prosecutors, law enforcement officers, and child services professionals.<sup>11</sup>
- In 1985, the National Center for Prosecution of Child Abuse was established by the National District Attorney’s Association as a program of the American Prosecutors Research Institute. The Center has improved the investigation and prosecution of child abuse

crimes nationwide through training and technical assistance to prosecutors and allied professionals.

- In 1986, the Children’s Justice Act gave states funds for interdisciplinary training programs, interagency protocols for referrals and joint interviews, and the creation of children’s advocacy centers or similar programs encouraging partnerships among agencies for joint investigations. The Act has since been amended to allow funding for the improvement of civil and criminal court responses to child abuse as well as for the establishment of interagency child fatality review teams.
- In 1990, the Victims of Child Abuse Act established rights and services for child victims of federal offenders. The Act added a new section to the Federal Rules of Criminal Procedure codifying innovative child witness reforms. They included alternatives to in-court appearances through closed-circuit television testimony or videotaped depositions; a presumption of child witness competency; privacy protections; courtroom closure provisions; authority for appointments of guardians ad litem; provisions for a supportive person to accompany the child during their court appearances; speedy trial provisions; authority for judges to permit child witness use of anatomical dolls; and consultation with multidisciplinary teams. The Act was amended in 1993 to provide funding to support local children’s advocacy centers and to establish regional training centers to assist communities in establishing interagency teams to respond to child abuse cases.
- In 1993, the National Child Protection Act provided authority for conducting criminal background checks for child care providers nationwide and required states to report child abuse crime information to the FBI’s criminal record system.
- In 1994, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act provided financial incentives for states to enact sex offender registration requirements. Following passage of the Act, a number of states required offenders convicted of state crimes against children to maintain a current address with state law enforcement authorities for 10 years after release from prison, parole, or supervision.
- In 1994, a provision of the Crime Control and Law Enforcement Act criminalized domestic and international travel for the purpose of engaging in sexual activity with a child.
- In 1996, the Child Pornography Prevention Act included as a form of child pornography any computer-generated, or “morphed” depiction of a child engaged in sexually explicit conduct. The new statute considers the motives of the producers and the intended audience,

as well as the presumed harm to the victim, as justification for prohibiting this form of pornography.

- In 1996, Megan’s Law amended the Jacob Wetterling Act to provide for the notification of a community regarding the presence of a registered sex offender. The law was passed to better protect children from known sex offenders.

### State Legislation Protecting Child Victims

Numerous state laws now exist to protect children from physical and sexual abuse and to provide an array of rights and services for child victims who participate in the criminal justice process. Reforms on behalf of children have taken place at every step of the criminal justice process, from the initial reporting of abuse through the investigation, prosecution, and disposition of convicted offenders. Many of these reforms—expediting the adjudication of child abuse cases, limiting the number of investigative interviews with child victims, and providing advocacy for child victims in criminal courts—were considered radical a decade ago but are now common practice in many communities. More can be done, however, to protect the rights and improve the treatment of all child victims. As a first step, special protections for child victims participating in the criminal justice system must be made consistent nationwide.

### The Long-term Impact of Child Victimization

Victimization is a serious threat for America’s children and youth. In 1992, the National Institute of Justice released a report, *The Cycle of Violence*, by Cathy Spatz Widom, Director of the Hindelang Criminal Justice Research Center at the University of Albany, New York. The study revealed a significant link between victimization in childhood and later involvement in violent crimes—a cycle of violence.<sup>12</sup> The study found that for some children, violence does, indeed, beget violence. Those who had been abused or neglected as children were more likely to be arrested as juveniles and as adults for a violent crime. On average, abused and neglected children begin committing crimes at a younger age, they commit nearly twice as many offenses as nonabused children, and they are arrested more frequently. Widom also conducted interviews with a large number of people 20 years after their childhood victimization. Preliminary findings from this followup study suggest that the long-term consequences of childhood victimization may also include mental health concerns, educational problems, alcohol and drug problems, and occupational difficulties.

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*The youngest victims of crime still struggle with a justice system that often remains distant, remote, and unresponsive to the unique vulnerabilities of children. Children are not miniature adults.*

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Jay Howell,  
Attorney and Victim Advocate,  
Jacksonville, Florida

**Federal and State Statutes Addressing Child Victims**

<i>No. of States</i>	<i>Federal</i>	<i>Type of Statute</i>
32	X	Limits the release of identifying information about child abuse victims in criminal proceedings.
25	X	Mandates speedy disposition of criminal cases involving child victims or witnesses.
39	X	Extends or removes the statutes of limitation for offenses against children.
16		Affects admissibility of videotaped statements/interviews in criminal child abuse proceedings.
35	X	Affects admissibility of videotaped testimony/dispositions in criminal child abuse cases.
34	X	Affects closed-circuit television testimony in criminal child abuse proceedings.
50	X	Affects case law regarding competency of child witnesses to testify in criminal proceedings.
33		Affects use of special hearsay exceptions for criminal child abuse cases.
2		Limits the length of a child's in-court testimony.
15	X	Permits closing of courtroom during child victim or witness testimony in criminal child abuse cases.
9	X	Permits the use of anatomical dolls in criminal child abuse cases.
15	X	Allows the appointment of guardian ad litem in criminal child abuse cases.
34	X	Mandates or authorizes the creation of multidisciplinary/multi-agency child protection teams.
17		Mandates autopsies in child death cases.
18		Mandates or authorizes creation of child death review teams.
44		Authorizes HIV testing of sex offenders.
50	X	Requires sex offenders to register with a government agency.

American Prosecutors Research Institute's, National Center for Prosecution of Child Abuse, Statutory Summary Project, December 31, 1996.

In April of 1997, the National Institute of Justice released a summary of research, *Prevalence and Consequences of Child Victimization*, conducted by Dean Kilpatrick and Benjamin Saunders of the Crime Victims Research and Treatment Center-Medical University of South Carolina. The report's preliminary findings on the mental health impact of child victimization are highlighted below:

- A significant number of the youthful population have been victims of sexual and physical abuse and have personally witnessed incidents of violence.
- Of the nation's 22.3 million adolescents ages 12 to 17, approximately 1.8 million have been victims of a serious sexual assault, 3.9 million have been victims of a serious physical assault, and almost 9 million have witnessed serious violence. Nearly 2 million appear to have suffered (and more than 1 million still suffer) from post-traumatic stress disorder (PTSD)—a long-term mental health condition often characterized by depression, anxiety, flashbacks, nightmares, and other behavioral and physiological symptoms. About 3.4 million adolescents have been drug or alcohol abusers as well.

- Among adolescents who have been physically assaulted, 23.4 percent developed PTSD and 14.8 percent still suffer from it, compared to 10.8 and 4.5 percent, respectively, among nonvictims.
- More female than male adolescents had been sexually assaulted: 13 percent of females versus 3.4 percent of males. Sexual assault was defined in the study as “unwanted but actual sexual contact.” The researchers noted that this did not include unsuccessful attempts at contact or noncontact victimization such as exhibition.
- Respondents indicated that young males had significantly higher rates of being physically assaulted than females: 21.3 versus 13.4 percent. Behavior that the study considered to be a physical assault included being attacked or threatened with a weapon; being badly hurt from a beating; or being attacked without a weapon but with the intent to kill or seriously injure.

The researchers note that confirmation of the study’s hypothesis—that there is a correlation between victimization experiences, PTSD, and delinquency—awaits completion of data analysis. However, preliminary findings indicate the significance of child victimization as a risk factor for adolescents to develop major mental health problems and to abuse alcohol as a means of coping with PTSD. These problems are often a precursor of delinquent behavior.<sup>13</sup>

### **Children Who Witness Violence**

The Medical University of South Carolina’s research also measured the lifetime experience of children who witness someone shot with a gun, knifed, sexually assaulted, mugged, robbed, or threatened with a weapon. The researchers did not include witnessing violence portrayed in the media—on television, in the movies, or in print media. In measuring the lifetime experience of children who witness violence, they found that 43 percent of male adolescents and 35 percent of female adolescents had witnessed some form of violence firsthand. Among witnesses to violence, 15 percent developed PTSD, compared to 3.3 percent of surveyed youths who had not witnessed violence.<sup>14</sup>

These new research findings underscore much of what has been known by those who provide counseling and support to children in the aftermath of victimization: that significant long-term mental health and behavior consequences are sometimes the result of childhood victimization. Equally important, the research shows that children who witness violence, such as children who witness domestic violence in their homes, schools, or neighborhoods, may develop long-term mental health problems.

## Innovative Programs

Over the past decade, thousands of programs have been initiated across the country to respond to child victims. These programs include multidisciplinary initiatives that provide a coordinated response of various agencies involved in responding to child victims; enhanced support and representation for child victims in the criminal justice and juvenile court system; and prevention programs.

## Multidisciplinary Initiatives

Because many child abuse and neglect cases involve simultaneous responses by child protection agencies and law enforcement agencies, professionals have come to recognize the benefits to be gained—not only by the investigating agencies but also by the child victims—when their investigations are better coordinated. Multidisciplinary teams have been developed in hundreds of communities (based in hospitals, police departments and prosecutors’ offices, and child protection and nonprofit agencies) to improve coordination and communication among the personnel involved in these cases. One of the most important reforms brought about by multidisciplinary teams is the ability to conduct joint interviews of child victims, reducing the number of interviews and interviewers to which child victims are exposed in the course of an investigation.<sup>15</sup>

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*One of the basic tenets of Children’s Advocacy Centers is that children should be provided service in a child-friendly environment. Our criminal justice system was never designed for children, and so, rather than trying to make a police station a place children may feel comfortable, we believe in re-engineering the system to fit children.*

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## Children’s Advocacy Centers

Perhaps the best example of the team approach to handling child victim cases is children’s advocacy centers. More than 350 communities have established or are developing children’s advocacy center programs, which allow law enforcement officers, prosecutors, child protection workers, victim advocates, and therapists to interview children in a single, “child-friendly” location rather than in several intimidating environments. Children’s advocacy centers provide holistic multidisciplinary case responses to children during various stages of treatment and criminal justice intervention. Some centers have facilities for medical examinations, many are equipped with one-way mirrors and videotaping capacity, and all are furnished with young children in mind. The U.S. Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides funds to communities seeking to establish or strengthen children’s advocacy centers. The funds are administered by the National Network of Children’s Advocacy Centers.

## Child Death Review Teams

Until recently, the death of a child as a result of chronic abuse was not recognized under most state laws as an intentional homicide, nor prosecuted as first-degree murder. Today, more than 23 states have

adopted child “homicide by abuse” laws that do not require proof of specific intent to kill when a child’s death results from abuse, thus allowing stiffer sentences, sanctions, and penalties.<sup>16</sup> Child death review teams now exist in all 50 states, and are charged with examining the circumstances surrounding certain fatalities known or suspected to be the result of child abuse or neglect.<sup>17</sup> The goal is to identify indicators or risk factors to signal earlier intervention in hopes of preventing future deaths.

In November 1996, the Interagency Council on Child Abuse and Neglect (ICAN) launched the National Center on Child Fatality Review. With support from the Times Mirror Foundation, the U.S. Department of Justice, OJJDP, and others, the center works to (1) act as a source of information exchange and develop services to provide accountability for the deaths of innocent children, and (2) develop services for survivors of fatal child abuse. The center’s repository of information from case reviews provides a valuable resource to prevent future child fatalities as well as serious abuse and neglect and accidental injuries and death.<sup>18</sup>

### **Court-Appointed Special Advocates**

For children who are the subject of protection proceedings, typically in a juvenile court, the Child Abuse Prevention and Treatment Act requires states to provide them with independent representation. Traditionally, children were represented in such cases by an attorney appointed to act as guardian ad litem. Courts in hundreds of communities, however, are also utilizing volunteer court-appointed special advocates who perform independent investigations of the children’s circumstances and file their own reports. A special organization, the National Court-Appointed Special Advocate Association, is funded by OJJDP to help courts establish a volunteer program and to standardize training for volunteer advocates.

The American Bar Association has developed standards and practices for lawyers representing children in abuse and neglect cases. In addition, numerous victim assistance programs have expanded their roles to include specific support mechanisms or special programs for child victims. The most extensive programs offer education for children about the criminal justice system and their role as witnesses; tours of the courtroom and introductions to judges, bailiffs, and attorneys; and role-playing opportunities to practice answering questions in the courtroom. Some programs even teach children stress reduction techniques. Victim advocates also work with children to prepare victim impact statements and offer support for children who choose to speak at sentencing hearings.

## **Juvenile Court Handling of Child Abuse and Neglect Cases**

Several important developments are helping to make the civil juvenile/family court child protection system work with greater effectiveness and speed in cases involving maltreated children. In 1995, the Children's Bureau of the U.S. Department of Health and Human Services began distributing funding to state court systems to evaluate and improve court system operations statewide in child abuse and neglect related proceedings. Forty-eight states have participated in the program and are now improving their court operations in various ways. Based upon administrative reforms undertaken by the Hamilton County Juvenile and Family Court in Ohio, the National Council of Juvenile and Family Court Judges in 1995 developed and published a document, *Resource Guidelines: Improving Court Practices in Child Abuse and Neglect Cases*, that sets forth the essential elements of properly conducted court hearings and describes how courts can more efficiently manage their work to ensure each child receives a fair, thorough, and speedy court process.

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*In the zeal to prosecute offenders, the vulnerabilities and needs of child victims can too easily be overlooked. Much progress has been made over two decades to help reduce legal system-related trauma to children. We must remain vigilant and careful in applying these reforms, and we shouldn't forget the still often unmet needs of most child victims of crime.*

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Funding provided by OJJDP also enables the National Council of Juvenile and Family Court Judges to help jurisdictions nationwide to begin high-quality judicial processes for abuse and neglect cases. Through the project, 10 model courts are instituting various court reforms for the benefit of children under their care. Additionally, the Children's Bureau has begun to develop guidelines for model child welfare legislation to help the courts better protect children and place them in safe, permanent homes.

## **Training to Address the Needs of Missing and Exploited Children**

Numerous initiatives have been undertaken in the past decade to address the training needs of people who work on cases involving missing and exploited children. For example, each year OJJDP trains more than 4,500 law enforcement officers through its Missing and Exploited Children Training and Technical Assistance Program. The program's comprehensive courses are designed to increase skills and abilities, enhance service coordination, and improve the investigation and handling of missing and exploited children cases.

## **Safe Kids/Safe Streets**

In 1996, several agencies within the U.S. Department of Justice, Office of Justice Programs cooperated in developing and funding the program Safe Kids/Safe Streets: Community Approaches To Reducing Abuse and Neglect and Preventing Delinquency. Administered by OJJDP, Safe Kids is an innovative, 5½-year demonstration project that

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improves community response to child and adolescent abuse and neglect to break the cycle of victimization in childhood leading to delinquency later in life. Five sites have been funded through Safe Kids: Huntsville, Alabama; the Sault Sainte Marie Tribe of Chippewa Indians in Michigan; Kansas City, Missouri; Toledo, Ohio; and Chittenden County, Vermont. The sites are working toward 3 main objectives: (1) restructuring and strengthening the criminal and juvenile justice systems to be more comprehensive and proactive in helping children and adolescents and their families who have been or are at risk of being abused and neglected; (2) implementing or strengthening coordinated management of abuse and neglect cases by improving policies and practices within the criminal and juvenile justice systems and the child welfare, family services, and related systems; and (3) developing other comprehensive communitywide, cross-agency strategies to reduce child and adolescent abuse, neglect, and fatalities.

### **Prevention Programs**

Over the past decade, child abuse prevention programs have been initiated in hundreds of communities across the nation. Sexual assault prevention programs are being conducted in schools and in youth-serving organizations,<sup>19</sup> and physical abuse prevention programs geared toward parents are being offered in home, hospital, or community settings. Children's Trust Funds have been established in every state to support a wide range of prevention activities.

Early intervention programs have also been developed in communities across the country, and they are uniquely situated to reach children who may be victims of child abuse or neglect. Head Start, begun in 1965 and administered by the Administration for Children and Families within the U.S. Department of Health and Human Services, provides comprehensive developmental and social services for pre-school children and their families, serving nearly 750,000 in 1996 alone.<sup>20</sup> Another successful prevention program, Healthy Start, has been initiated in 110 pilot programs in 24 states. Started in Hawaii, the program sends visitors to the homes of high-risk parents to offer parenting education and support.<sup>21</sup> Healthy Start was cited by the U.S. Advisory Board on Child Abuse and Neglect as an outstanding child abuse prevention program that should be replicated nationwide.<sup>22</sup>

Communities are also recognizing that runaway and homeless youth need comprehensive services. Runaway and homeless youth are at exceptionally high risk of HIV infection, and OJJDP has identified innovative programs serving this population with a special emphasis on HIV prevention. One example is the Los Angeles High Risk Youth Program, which offers multifaceted and coordinated services through the Division of Adolescent Medicine at Children's Hospital Los Angeles.<sup>23</sup>

## **Recommendations from the Field for Child Victims**

Virtually every section of *New Directions* includes recommendations to enhance services for child victims. They include:

- Creating specialized units for the investigation and prosecution of child abuse.
- Establishing courtrooms designed especially for children.
- Expanding educational programs regarding the special needs of children for police, prosecutors, and the judiciary.
- Broadening resources needed to meet the mental health needs of children who are victimized, such as improved access to crime victim compensation.
- Disseminating protocols for medical professionals concerning the diagnosis and treatment of child abuse.
- Expanding victim awareness, crisis response, and violence prevention programs throughout the nation's educational system.

In addition to these proposals, this chapter provides recommendations for increased services for children as well as important reforms in the criminal justice system to benefit children.

### **CHILD VICTIMS RECOMMENDATION FROM THE FIELD #1**

**Communities should establish children's advocacy centers to provide child-friendly locations where abused children can receive the services they need to heal and provide information for the evaluation and investigation of their cases. To ensure the highest quality of intervention, training should be provided to professionals on conducting forensic interviews, to medical professionals on conducting child abuse examinations, and to mental health professionals on employing abuse-specific treatment approaches.**

One of the most important innovations this decade in providing services to child victims has been the proliferation of children's advocacy centers. Children's advocacy centers use a multidisciplinary

team approach to reduce the number of interviews abused children must endure and to deliver intervention services that are coordinated. Having law enforcement professionals, prosecutors, medical and mental health personnel, and child advocates working together ensures that children are not revictimized by the system and that they are provided with the best possible services. Similar programs should be created in every community.

To ensure each community has qualified specialists, professional schools should provide training in treating abused children and should consider the certification of child abuse treatment specialists, including child interview specialists, pediatric specialists in child abuse, and trauma recovery specialists in the mental health field.

#### CHILD VICTIMS RECOMMENDATION FROM THE FIELD #2

**Children who witness violence should be provided the same level of victim assistance and special protections within the criminal and juvenile justice systems as child victims.**

A growing body of research suggests that children are adversely affected by witnessing acts of violence in their homes, their communities, and the media. Children who witness violence are subject to many of the same traumatic reactions that beset child victims of crime, which include fear, anxiety, and various symptoms associated with PTSD.<sup>24</sup> For some children there is also an increase in violent behavior.<sup>25</sup>

Children who witness violence deserve the same protections in the criminal justice system, including secure waiting areas and court accompaniment, that have been extended to child victims, and they need access to victim services such as mental health counseling. Special programs have been established in battered women's shelters, schools, and community-based organizations to help children cope with the emotional aftermath of witnessing violence. These programs should be expanded.

#### CHILD VICTIMS RECOMMENDATION FROM THE FIELD #3

**To ensure child abuse cases are recognized and reported as early as possible, training on the identification and signs of abuse, as well as the impact of child victimization, should be provided to all professionals who come into contact with child victims.**

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*We have a relatively recent understanding of the links between child abuse and domestic violence and the complexity of balancing what is best for the children with what is best for the mothers. The question is: how do we best protect children in a family where other forms of violence are prevalent? We need to recognize that these issues are all part of a whole.*

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Debra Whitcomb,  
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Professional schools in medicine, mental health, education, law, theology, and other related disciplines should require courses in child victimization. Physicians and other allied professionals should be alert to signs of abuse and neglect among children who may appear to have a variety of unrelated ailments. Particular effort should be made to detect abuse in cases in which the death of an infant may have been the result of “shaken baby syndrome” or other injuries that are difficult to detect or diagnose. When such abuse is identified, the case should be reported and referred to designated specialists in the field of child abuse affiliated with a local multidisciplinary team or to a children’s advocacy center, if one exists.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #4**

**There should be an improved governmental response to the problem of missing, abducted, and sexually exploited children.**

State Missing Children’s Clearinghouses now exist in all states, and 34 nonprofit organizations have been established nationwide to assist families of missing children. These organizations should be provided funding to educate the public on how parents can prevent their children from becoming victims of an abduction, including those committed by noncustodial parents and family members, or sexual exploitation. States should establish uniform procedures for responding to missing children’s cases and implement uniform law enforcement training requirements, as recommended by the National Center for Missing and Exploited Children.

Also, states should implement records-flagging procedures and require that new school enrollments be submitted to the State Missing Children’s Clearinghouses. States should make custodial interference a criminal felony offense, without a requirement for a pre-existing custody order. Laws and policies on family-related child abduction should be coordinated with child abuse and domestic abuse statutes and procedures to focus on the best interests of the child.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #5**

**All jurisdictions should establish or support “court school” programs to help educate child victims and witnesses about the court process and their role within it.**

Because the testimony of a child victim or witness often plays a substantial role in the prosecution of a criminal case, it is important that children become familiar with the courtroom setting. Many children have preconceived notions of the judicial process from the media and television, and these notions are often accompanied by intense fear and anxiety. It is important to the prosecution of criminal cases involving children that these fears be allayed before a child's day in court, and "court schools" are among the most effective means to prepare children for participation in the legal system.

In a few larger jurisdictions, such programs have been established as a result of the large number of child sexual abuse cases prosecuted in those jurisdictions. In Los Angeles, for example, a "Kids in Court" program is sponsored by the Junior League, and a court school in San Diego is operated by the Center for Child Protection at Children's Hospital. In Philadelphia, a similar program is based in the district attorney's office. Despite the different sponsors, each program uses a similar structure to familiarize children and their families with the court's physical environment, procedures, and practices, as well as to explain what is expected of them as witnesses.

#### **CHILD VICTIMS RECOMMENDATION FROM THE FIELD #6**

**States should enact legislation to open access to criminal history records, and they should adopt regulations and policies necessary to meet the requirements of the National Child Protection Act.**

In 1993, Congress enacted the National Child Protection Act to upgrade state policies and criminal history record systems so that designated state agencies could, on behalf of child and youth care organizations, promptly obtain nationwide criminal history information on prospective employees or volunteers who would have contact with children. In 1995, the American Bar Association Center on Children and the Law issued a report that broadly examined the practices used by child-serving organizations to screen prospective employees and volunteers. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention will be issuing guidelines for screening practices and policies in 1998.

Although not required by the National Child Protection Act, in the interest of children, states should enact laws to provide relevant agencies and individuals with prompt access to applicable criminal record information on potential providers of care for children. Relevant agencies and individuals include schools, children and youth service

agencies, recreation programs, and families seeking information on applicable criminal record information on applicants for positions in which individuals would be working with children.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #7**

**The federal government should examine data collection regarding child victimization to ensure that all crimes against children, from their birth through the age of majority, are uniformly reported, categorized (by age of the child, type of crime, and offender relationship to the child), and analyzed at the state and federal levels.**

Better statistics are fundamental to prioritizing research, resource allocation, and program development for child victims. Victimization surveys should be extended to include crimes against children, including child deaths. Congress should enact legislation and appropriate funds to expand the FBI's Uniform Crime Reports and the National Crime Victimization Survey to include crimes against children. Congress also should appropriate funding to further the implementation of the National Incidents Based Reporting System (NIBRS), which readily permits collection of data on victim age and victim/offender relationship. States should also enact uniform legislation and law enforcement procedures that will help capture an annual picture of the various types of crimes against children. The Departments of Education and Justice should explore the potential for sharing methodologies and should examine the feasibility of surveying children under 12 through interviews at school. The worthiness of relying on parental reporting of crimes involving very young children should be examined, and a national data collection initiative on cases involving computers to exploit children should be developed.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #8**

**All states should authorize judges to exclude from the courtroom persons who are not necessary to child-related court proceedings if requested by the victim or the victim's representative or if the court determines that there would be a likelihood of "substantial psychological harm" if the child were to testify in open court.**

Laws in 15 states and at the federal level have been enacted to provide this special protection for child victims. The U.S. Supreme Court in *Globe Newspaper Co. v. Superior Court* held that states can prohibit the disclosure of victims' names before they become part of the public record and that courts may exclude the press and general public from the courtroom during certain types of testimony.<sup>26</sup> Federal law provides, however, that a judge may close the courtroom only after determining on-the-record that there is a likelihood of "substantial psychological harm" if the child were to testify in open court.<sup>27</sup> Furthermore, the order to close the courtroom must be "narrowly tailored to serve the Government's specific compelling interest."<sup>28</sup>

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #9**

**State laws should be reviewed and amended where necessary to protect the privacy of child victim records including audio- and videotaped interviews.**

Currently, 32 states and federal law provide this right.<sup>29</sup> The U.S. Supreme Court in *Pennsylvania v. Ritchie*<sup>30</sup> held that judges should review in private the records of child victims being requested by the defendant and should turn over only information material to the defense. This right provides a mechanism for courts to safeguard confidential records of child victims and provides protection of the confidential communications of child victim counselors and advocates.

Furthermore, privacy concerns for child victims should extend to the mass media as well. State court officials, juvenile/criminal court judges, and legislators should explore ways to minimize unnecessary and harmful intrusions by the media and the general public into the privacy of child victims and their families, particularly concerning the revelation of children's identities. Courts should promote responsible and useful media coverage of crimes against children and the judicial handling of civil child abuse-related proceedings.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #10**

**All states and the federal government should enact or amend child hearsay rules to govern the admission into evidence of reliable statements made by children under 16 years of age to an adult concerning acts of physical and sexual abuse.**

Child hearsay laws create special exceptions to the use of hearsay evidence at trials by permitting out-of-court statements made by children concerning their abuse to be admitted at trial. Such laws have been enacted in 33 states, though they vary greatly nationwide. There is no such right, however, at the federal level. Some jurisdictions allow child statements concerning abuse to fall under catchall or residual hearsay exceptions, but these exceptions are subject to rigid legal restrictions. To impose more consistency, hearsay rules should *not* include the following provisions: limiting the exception to statements made by the child to only certain groups of professionals; limiting use of hearsay to preliminary hearings; and requiring corroboration as an absolute prerequisite for admission into evidence. When crafted carefully, state child hearsay statutes have been held to not violate a defendant's constitutional rights or improperly deny the defendant the right to cross-examine witnesses, even in cases in which the child does not appear in court as a witness.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #11**

**Additional court procedures should be implemented to assist in the prosecution of child victimization cases.**

States that have not done so should enact laws to toll their statutes of limitations for both criminal proceedings and civil tort actions during the period of a child's minority, for a reasonable time period thereafter, and for a reasonable time after the victim discovers that he or she has been the victim of a crime during childhood. State statutes should also provide a civil cause of action for childhood victims of crime against any person (including a parent or guardian), with specific provisions for recovery of attorney's fees and other costs.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #12**

**Courts and prosecutors need to be provided uniform guidance on establishing competency when a child's capacity to testify is challenged.**

While all states and the federal government have enacted laws that presume children to be competent witnesses as long as they meet certain minimum criteria, their competency is often challenged by the defendant. In general, the minimum criteria for a child to serve as a witness are the capacity to understand the difference between truth and fantasy and appreciate the obligation or responsibility to speak the

truth; sufficient mental capacity at the time of the alleged incident to observe or receive and record accurate impressions of the incident; sufficient memory to retain an independent recollection of the incident; and the ability to translate into words recollections of the alleged incident.<sup>31</sup> In *Kentucky v. Stincer*, the U.S. Supreme Court held that the defendant need not be present during the competency inquiry.<sup>32</sup> To ensure the sensitive treatment of child victims throughout this process, judges should receive guidance on how to elicit information from children in a nonthreatening manner.

#### CHILD VICTIMS RECOMMENDATION FROM THE FIELD #13

**All states should enact statutes requiring speedy criminal trials and civil child protection adjudications for child victims. In addition, all court cases involving child victims, including criminal, juvenile, domestic violence, and domestic relations, should implement speedy trial and appellate provisions and utilize “child victim” court dockets. In every case involving a child victim, judges should weigh the adverse effect of continuances and delays.**

The right of a child victim to have a speedy trial has been enacted in 25 states and in federal law. In practice, however, these laws are rarely invoked.<sup>33</sup> Most prosecutors report that every case involves at least one continuance as a result of competing cases on the courts’ calendars or claims by the defendant of inadequate time to prepare an effective defense.

In 1995, the National Council of Juvenile and Family Court Judges issued a set of resource guidelines for courts to follow in expediting the resolution of civil child protection cases. Similar guidelines should be developed for all other court cases involving children. States are also taking innovative approaches to this problem. In Ramsey County, Minnesota, victim advocates in the county attorney’s office routinely flag cases requiring expedited disposition. In St. Paul, the police department has detailed a special investigator to the child protection agency to review incoming abuse reports for cases that warrant criminal justice intervention.<sup>34</sup> Other communities are developing comprehensive, coordinated, interagency protocol for investigating child abuse and exploitation.

*I am concerned about the length of time it takes to bring a child sexual abuse case to trial. One of my cases involves an 8 year-old child that reported sexual abuse by her uncle almost 3 years ago. This is has been very difficult for the child, especially emotionally, considering her developmental stage. The criminal justice process is difficult enough for children without lengthening it.*

A Victim Advocate

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #14**

**All states should consider alternatives to live in-court testimony for children under the age of 18.**

Currently, 35 states and the federal government recognize the right to use videotaped testimony taken at depositions or preliminary hearings for children under the age of 18. Additionally, 34 states and the federal government recognize the right to use closed-circuit television testimony. The U.S. Supreme Court's decision in *Maryland v. Craig* permits the use of closed-circuit television testimony when a determination is made by the court that "the child will suffer serious emotional distress such that the child cannot reasonably communicate."<sup>35</sup> The Court determined that one-way closed-circuit television testimony is the "functional equivalent" of live, in-court testimony. The use of videotaped testimony presents different Sixth Amendment considerations, such as a possible violation of the defendant's right to confrontation, but these issues were not addressed by the Court in *Craig*.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #15**

**Specially trained lawyers and court-appointed special advocates should be provided to children in all civil child protection and other abuse-related proceedings.**

Guardians ad litem play an important role in representing child victims in legal settings, and their assistance should be extended to all criminal, domestic relations, and domestic violence proceedings.<sup>36</sup> This right, while protected on the federal level, is recognized in only a minority of states.<sup>37</sup> Guardians ad litem assist child victims in a variety of important ways. They issue recommendations to the court concerning the child's welfare, coordinate the delivery of resources to the child, provide access to the child's records, and attend all court proceedings in which a child participates. Guardians ad litem and court-appointed special advocates are seen as a bulwark against system-induced trauma on the child and provide a critically needed voice for the child's legal rights.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #16**

**Early intervention programs such as Head Start and Healthy Start programs should be implemented nationwide. The staff of**

**these programs must be trained to recognize the signs of child abuse, how to report abuse to appropriate authorities, and how to provide referrals for victims and their families.**

Head Start, Healthy Start, and other early intervention programs provide a unique opportunity to reach thousands of children who may be victims of child abuse or neglect. The cornerstone of the Head Start program is parent and community involvement. Approximately 1,400 community-based nonprofit organizations and school systems participate in Head Start programs, assisted by over a million volunteers.

The Healthy Start approach in which parenting education and support is offered to high-risk parents is widely believed to be effective in preventing incidences of child abuse and neglect. Many Healthy Start pilot programs have been developed across the country, and results of these programs should be closely analyzed and disseminated. The Healthy Start program could be instrumental in reducing the number of child abuse cases that lead to homicide. As one report stated, nearly 50 percent of children who die from maltreatment in the United States are known to be at some level of risk by child protective service agencies.<sup>38</sup>

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #17**

**Child-serving institutions such as schools, social service and law enforcement agencies should make diligent efforts to identify troubled youth and refer them to social service or victim assistance programs before they run away from home. Efforts should also be undertaken to identify and assist runaway, thrown-away, and homeless child victims.**

Runaway, throwaway, and homeless youth are the largest single category of missing children, and they frequently run away because they are physically or sexually abused in their homes. On the streets they continue to be victimized. Cooperation between law enforcement agencies and programs that serve runaway and homeless youth should be enhanced. These children display a range of warning signs that can alert professionals to intervene before they fall to the lure of the streets or opportunistic perpetrators.<sup>39</sup> Police should be aware that community-based agencies offer a range of services that can help them.

Additional transitional housing, independent living skills, job training, and intensive aftercare programs should be funded to ease the transition of these youth to self-sufficiency. It is inappropriate and sometimes dangerous to return runaway or throwaway youth to families who have abused or neglected them. Alternative living programs can help these children learn to adapt to a more mainstream environment and adopt a healthier lifestyle.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #18**

**Child abuse prevention programs that address computer exploitation should be developed and publicized.**

The prevalence of child sexual exploitation through computer networks is becoming an increasingly difficult problem for law enforcement. Plummeting costs of sophisticated video recording and computer equipment have made child pornography almost universally accessible. Furthermore, unregulated communication via e-mail and chatrooms enables adults to solicit children for sex with little fear of detection. Lawmakers are working to address this issue. For example, Representative Bob Franks introduced a bill in July 1997 that would add Internet service providers to the categories of professionals who must report suspected child abuse to law enforcement.<sup>40</sup> Efforts should continue to support private enterprise in assuming an assertive role in crime prevention. Internet access providers must examine ways to monitor or regulate use of the Internet to exchange child pornography or solicit children for sex. Research on First Amendment rights as they apply to communication on the Internet should inform the development of initiatives to protect children from such exploitation. In addition, parents who lack computer literacy need guidance in protecting their children from unscrupulous Internet operators and users.

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*A shelter in Florida organized a special Christmas dinner for battered women and their children. Even though Santa Claus was there distributing gifts, the children were more drawn to the uniformed law enforcement officers providing security for the event. Clearly, the children had more contact with police officers than Santa Claus in their short lifetimes.*

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A Domestic Violence Advocate  
in Florida

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #19**

**Federal and state governments should support the significant additional research that is needed to document effective treatments for child victims, especially victims of child sexual and physical abuse and children who witness violence.**

In 1995, two leading child abuse researchers, David Finkelhor and Lucy Berliner, reviewed the findings and conclusions from 29 studies evaluating the effectiveness of treatments for sexually abused children. Based on their review, they strongly recommended that further studies be conducted in the following areas:

- The efficacy of treatment for sexually abused children. The studies Finkelhor and Berliner reviewed documented improvements in sexually abused children consistent with the belief that therapy facilitates recovery, but more research is needed to document that recovery is not caused by the passage of time or some factor outside therapy such as parental support.
- The implications for the organization of treatment and its evaluation caused by the fact that sexual abuse treatments confront a very diverse set of children, including children of all ages, children with a variety of histories and presentations, children with many different kinds of symptoms, and children who display no symptoms.
- The reasons why some children fail to improve and who these children are.
- The possible existence of serious “sleeper” effects, or serious symptoms that may not surface until many years later. For clinicians, a big unanswered question is not just how but also whether sleeper effects can be prevented by early intervention.
- The importance of family context on recovery, including parental support and healthy conflict management. The effectiveness of treatment for children is likely to be strongly influenced by the family context, and addressing it should be a very important priority for intervention.
- The utility of abuse-focused therapy and targeted interventions.
- The optimal length of treatment. Some studies have found that symptoms continue to improve as therapy extends for as long as 12 months.<sup>41</sup>
- The problem of treatment dropouts.
- The development and use of abuse-specific outcome measures.

Additional research should also examine interrelationships between domestic violence and child abuse.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #20**

**Convictions and substantiated allegations of spousal or child abuse should create a rebuttable presumption against awarding temporary or permanent custody to an offending parent. Parents convicted of child or spousal abuse should not be granted the right to visitation without independent supervision.**

Newspapers are replete with tragic accounts of child abuse victims being returned to an abusive parent only to die in a subsequent incident of abuse. Society and family law, as a reflection of society, historically has granted great deference to the rights of parents and the principle of family unity. However, such admirable objectives should not be given priority over the safety or the life of a child. Studies have documented the short- and long-term devastation that parental abuse inflicts on its victims.<sup>42</sup> As such, it is rarely, if ever, in the best interest of the child to be returned to an abusive parent. Similarly, the risk of additional injury to the child at the hands of an abusive parent far outweighs that parent's right to unsupervised visitation and calls into serious question whether such visitation should be granted in such cases.

Studies also indicate that children of parents who abuse their spouse have a 1500 percent higher risk of being abused than children in nonabusive families.<sup>43</sup> Studies also evidence the psychological trauma children suffer when they witness violence among family members.<sup>44</sup> Given the inherent risk to children in such circumstances, family courts should presume that it is always in the best interest of the child to grant custody to the nonabusive parent/spouse. Numerous states have adopted similar presumptions as a matter of law.<sup>45</sup>

In cases in which child or spousal abuse has been alleged but not proven in a court of law, family courts should err on the side of the child's safety by ordering temporary custody to the spouse who has not been accused unless or until such an allegation has been proven to be unsubstantiated or otherwise without merit.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #21**

**States should include driving while under the influence of alcohol or other drugs with children in the vehicle as a form of child endangerment. Such drivers should receive**

**enhanced sanctions when criminally convicted, and evidence of driving under the influence should be considered by family and juvenile courts when determining custody and visitation rights in cases affecting the parent-child relationship.**

No one should get into a vehicle driven by an individual under the influence of alcohol or other drugs. Children, however, sometimes do not have a choice. Research indicates that motor vehicle crashes outrank all other diseases and injuries as the major cause of death for children up to the age of 14. During the last decade, approximately 24,350 children younger than 13 were killed in motor vehicle crashes. One study showed that 56 percent of children killed in crashes in 1993 were passengers. About 23 percent of children killed in that age group were killed in alcohol-related crashes.<sup>46</sup> This serious threat to the lives of children must be addressed by the child protection community as well as by criminal and civil courts when considering the safety of children.

**CHILD VICTIMS RECOMMENDATION FROM THE FIELD #22**

**Health insurance providers, particularly managed care providers, should ensure that their practices facilitate immediate, specialized assistance for child victims and witnesses of crime. Managed care providers should link with multidisciplinary children's advocacy centers or teams and should authorize payments for out-of-plan examinations by specialists in the treatment of child abuse without prior approval.**

Prompt provision of qualified care to child victims and witnesses of crime is essential. Unfortunately, some health insurance providers do not differentiate between the needs of these children and others with more general needs. Steps can and should be taken to eliminate an unnecessary barrier to serving and meeting the needs of children who are the victims or witnesses of crime. Whether child victims are seen in or out of managed care networks, protocols should be developed to allow them to bypass the "gatekeeper" of the managed care system through a referral by a member of a multidisciplinary team. Managed care providers should also be required to include specialists in the treatment of child abuse on their panel of mental health providers.

Cost-control and gatekeeper requirements of managed care plans can place hurdles to timely access to expertise in child abuse evaluation and treatment. These delays can lead to multiple and contradictory examinations of the child and multiple interviews, increasing the child's trauma. To save unnecessary trauma and costs, managed care systems should be required to recognize and provide access to specialists in the evaluation, investigation, and treatment of child abuse cases.

The recommendations in this chapter were based upon input from participants at public hearings and reaction and working groups, as well as papers submitted by experts in the field, identified in Appendix A. The recommendations do not necessarily reflect all of the views of the contributors, nor do they necessarily represent the official views of the Department of Justice.

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## Endnotes

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