



National Institute of Justice

Research Preview

Jeremy Travis, Director

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Coordinating Criminal and Juvenile Court Proceedings in Child Maltreatment Cases

A Summary of a Research Study by Debra Whitcomb, Education Development Center, Inc., and Mark Hardin, American Bar Association Center on Children and the Law

Child abuse cases often inspire intense public reaction. In some instances, public concern over child abuse has encouraged criminal prosecution of offenders, even in cases that otherwise would have been handled solely by the child protection system and the juvenile courts. As a result, many cases of child maltreatment involve both criminal and juvenile court proceedings, each initiated by different government entities, and each pursuing different processes that may be incompatible, inefficient, and deleterious to the child and family.

A National Institute of Justice-funded study conducted by Education Development Center, Inc., and the American Bar Association's Center on Children and the Law found that although many child protection and law enforcement agencies work reasonably well together during the investigation process, a similar level of cooperation has not been achieved by attorneys who handle the litigation in criminal and juvenile courts. Greater cooperation is needed to protect children from harm without compromising the American justice system.

Key issues

In juvenile court, the goal is to protect the child, rehabilitate the family if possible, and ensure a permanent home for the child. A criminal proceeding is brought to protect the public, deter future crime, punish wrongdoing, and rehabilitate the criminal. There is a philosophical difference between the treatment emphasis of juvenile court and the punishment emphasis of criminal court.

This clash in approach becomes evident when criminal and juvenile court actions in child maltreatment cases

proceed concurrently but independently of one another. When these actions are not coordinated, the results can be harmful to the child, the family, and the justice system itself. For example, when juvenile court actions precede the criminal matter, as they do in most circumstances, the alleged offenders are at risk. Information they provide to comply with juvenile court treatment plans, such as their involvement in therapy, can be used against them in subsequent criminal prosecutions.

When criminal actions proceed first and juvenile court actions are delayed, children are at risk. Treatment and placement plans may be stalled and children may not receive needed services. It is also possible for judges in the separate cases to issue conflicting orders (e.g., the juvenile court may order joint family therapy while the criminal court imposes a no-contact order). When this happens, the integrity of the justice system is undermined.

Coordination of proceedings

To learn how jurisdictions deal with these issues, researchers talked to a nationally representative sample of 103 criminal prosecutors and 59 attorneys who represent child protection agencies in the juvenile court. Responding prosecutors estimated that 60 percent of their child maltreatment cases were concurrently involved in juvenile court proceedings, often because a nonoffending parent was unable or unwilling to protect the child from repeated abuse by the alleged perpetrator. Conversely, child protection attorneys estimated that 13 percent of their caseloads were also involved in criminal courts; the remaining cases either were not sufficiently serious or

lacked adequate evidence for criminal prosecution. Sexual abuse was the offense category most likely to be simultaneously involved in both courts.

Findings reveal that little attention is paid to coordinating court proceedings in related cases:

- Roughly half the attorneys surveyed said that dual-court cases proceed independently, with no consideration given to case status in the other court. Among the other half, most respondents reported that juvenile court matters generally preceded related criminal proceedings, while a smaller percentage stated that criminal cases were handled first.
- Nearly one-fifth of the prosecutors could not name the individual or agency responsible for representing the child protection agency in juvenile court proceedings.
- Several respondents suggested that attempts to coordinate child maltreatment cases would be inappropriate and perhaps counterproductive. They asserted that the disparate missions of criminal and juvenile courts could not be reconciled without radically changing the larger system of jurisprudence.

Experiences in four jurisdictions

Following the phone survey, researchers visited four jurisdictions—Chittenden County (Burlington), Vermont; Tompkins County (Ithaca), New York; Santa Clara County (San Jose), California; and Hawaii County (Hilo and Kona), Hawaii—that had given special attention to the problem of coordination. Despite substantial variations in community size, court structures, statutory frameworks, and social service resources, researchers observed a number of common themes.

Reportedly, all four jurisdictions had overcome potential problems with conflicting court orders in concurrent cases. Much of the credit for resolving inconsistencies went to: (1) defense attorneys, who often represented the alleged offender in both courts; (2) probation officers, who incorporated juvenile court orders into their presentence investigation reports to the criminal court; and (3) criminal court judges, who referenced juvenile court orders into their own orders governing pretrial release or probation. One judge even developed an on-line system to search for outstanding protection orders involving any family member.

On the other hand, defense counsel were universally dissatisfied with statutory protections available to their clients. “Testimonial immunity” statutes are meant to allow alleged perpetrators to participate freely in juvenile court matters without fearing that their statements will be used against them in criminal court. However, because defense counsel perceived these protections to be inadequate,

they frequently advised their clients not to testify in juvenile court or participate in therapy. As a result, treatment for alleged offenders—particularly those accused of sexual abuse—was often delayed pending resolution of the criminal case.

Policy implications

This study identifies issues that require resolution when child abuse cases wind up in both criminal and juvenile courts. Possible solutions include laws to:

- Encourage or require participation of criminal prosecutors and child protection attorneys in civil/criminal case coordination teams.
- Delineate the nature of information that may be shared between the courts and the circumstances under which sharing is possible.
- Encourage or require the courts to report the status of dual-court cases in a reciprocal manner.

Also, because juvenile court proceedings generally occur before the corresponding criminal matters (as they should, to give precedence to the child’s needs), States are advised to review their testimonial immunity statutes to strengthen protections for alleged offenders, e.g., by specifying that reports from evaluations or treatment conducted under juvenile court order cannot be made available to the criminal prosecution.

However, researchers concluded that, ultimately, coordination of child maltreatment proceedings depends on good communication between counsel for the child protection agency and the criminal prosecutor. To transcend traditional barriers, child protection attorneys should be included on multidisciplinary case review teams that already exist in many communities. Attorneys should consult with one another at key decision points in their respective cases, and they should work together and with others in the community to reform laws and practices that create contradictions in purpose or block cooperation.

This summary is based on the study supported by NIJ grant 92–IJ–CX–K034. The full report on the project, “Coordinating Criminal and Juvenile Justice Court Proceedings in Child Maltreatment Cases,” by Debra Whitcomb and Mark Hardin (NCJ 161835) is available through the National Criminal Justice Reference Service on interlibrary loan or for a photocopying fee. Call 800–851–3420.

Points of view in this document do not necessarily reflect the official position of the U.S. Department of Justice.

Selected NCJRS Publications

Listed below are some recent NIJ publications related to issues of child abuse, domestic violence, and victimization. These publications are free, except as indicated, and can be obtained from the National Criminal Justice Reference Service (NCJRS): telephone 800-851-3420, e-mail askncjrs@ncjrs.org, or write NCJRS, Box 6000, Rockville, MD 20849-6000.

These documents also can be downloaded through the NCJRS Bulletin Board System or at the NCJRS Anonymous FTP site in ASCII or graphic formats. They can be viewed online at the Justice Information Center World Wide Web site. Call NCJRS for more information.

Please do note that when free printed publications are out of stock, they are available as photocopies or through interlibrary loan.

Childhood Victimization and Risk for Alcohol and Drug Arrests, 2 pages, NIJ Research Preview, 1995, FS000108.

A Coordinated Approach to Reducing Family Violence: Conference Highlights, 40 pages, NIJ Research Report, 1995, NCJ 155184.

Earle, Ralph B., Ph.D., *Helping to Prevent Child Abuse and Future Criminal Consequences: Hawai'i Healthy Start*, 12 pages, NIJ Program Focus, 1995, NCJ 156216.

Earls, Felton J., M.D., and Albert J. Reiss, Jr., Ph.D., *Breaking the Cycle: Predicting and Preventing Crime*, 68 pages, NIJ Research Report, 1994, NCJ 140541.

English, Kim, *Managing Adult Sex Offenders in Community Settings: A Containment Approach*. VHS videotape, 1996, NCJ 159740, U.S. \$19, Canada and other foreign countries \$24.

Evaluation of Family Violence Training Programs, 2 pages, NIJ Research Preview, 1995, FS000125.

The Extent and Costs of Crime Victimization: A New Look, 2 pages, NIJ Research Preview, 1996, FS000131.

Fagan, Jeffrey, *The Criminalization of Domestic Violence: Promises and Limits*, 64 pages, NIJ Research Report, 1996, NCJ 157641.

Harrell, Adele, Ph.D., *Intervening with High-Risk Youth: Preliminary Findings from the Children-at-Risk Program*, VHS videotape, 1995, NCJ 153270, U.S. \$19, Canada and other foreign countries \$24. Also a brief summary is available at no cost. Ask for FS000140.

Healey, Kerry Murphy, *Victim and Witness Intimidation: New Developments and Emerging Responses*, 16 pages, NIJ Research in Action, 1995, NCJ 156555.

McGillis, Daniel, *Beacons of Hope: New York City's School-Based Community Centers*, 16 pages, NIJ Program Focus, 1996, NCJ 157667.

Moffitt, Terrie, Ph.D., *Partner Violence Among Young Adults*, VHS videotape, 1995, NCJ 154277, U.S. \$19, Canada and other foreign countries \$24.

Moses, Marilyn C., *Keeping Incarcerated Mothers and Their Daughters Together: Girl Scouts Beyond Bars*, 12 pages, NIJ Program Focus, 1995, NCJ 156217.

NIJ, OVC, OJJDP, National Center on Child Abuse and Neglect, *Joint Investigations of Child Abuse, Report of a Symposium*, 32 pages, NIJ Research Report, 1993, NCJ 142056.

Preventing Interpersonal Violence Among Youths, 2 pages, NIJ Update, 1994, FS000069.

Prosecuting Child Physical Abuse Cases: Lessons Learned from the San Diego Experience, 2 pages, NIJ Update, 1995, FS000078.

Saunders, Benjamin, Ph.D., and Dean Kilpatrick, Ph.D., *Prevalence and Consequences of Child Victimization: Preliminary Results from the National Survey of Adolescents*, VHS videotape, 1996, NCJ 157643, U.S. \$19, Canada and other foreign countries \$24.

Smith, Barbara, Ph.D., *Prosecuting Child Physical Abuse Cases: A Case Study in San Diego*, 12 pages, NIJ Research in Brief, 1995, NCJ 152978.

The Validity and Use of Evidence Concerning Battering and Its Effects in Criminal Trials: Report Responding to Section 40507 of the Violence Against Women Act, 178 pages, NIJ Report to Congress, 1996, NCJ 160972, U.S. \$23, Canada and other foreign countries \$26.

Victim Assistance Programs: Whom They Service, What They Offer, 2 pages, NIJ Update, 1995, FS000840.

Whitcomb, Debra, Gail S. Goodman, Desmond K. Runyan, and Shirley Hoak, *The Emotional Effects of Testifying on Sexually Abused Children*, NIJ Research in Brief, 1994, NCJ 146414.

Widom, Cathy Spatz, Ph.D., *Victims of Childhood Sexual Abuse—Later Criminal Consequence*, NIJ Research in Brief, 1995, NCJ 151525.

Widom, Cathy Spatz, Ph.D., *The Cycle of Violence Revisited*, VHS videotape, 1995, NCJ 153272, U.S. \$19, Canada and other foreign countries \$24. Also a brief printed summary is available at no cost. Ask for FS000136.

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