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## Child protection and justice systems processing of serious child abuse and neglect cases<sup>☆</sup>

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### Abstract

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

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

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

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

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

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## Introduction

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

## Therapeutic intervention and law enforcement in CPS

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

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

Day Care trials, for a review see, Fukurai, Butler, & Krooth, 1994), the prosecution of criminal child maltreatment is not at all commonplace.

Effective child protection systems include the interactive application of both prosecution and “therapeutic” intervention. Nevertheless, relatively little is known about the decision-making processes of these four systems: child protection, law enforcement, dependency court, and the criminal justice system; the interconnectedness between them in situations of child maltreatment; and the complexities of the roles and missions of each as they struggle to respond to the problem. A recent meta-analysis of 21 studies of prosecution for child abuse indicated that once the Prosecutor determines that a case should be carried forward to prosecution, conviction rates are remarkably similar. For example, rates of carrying prosecution forward without dismissal were 72% or higher. For these cases, plea rates averaged 82%. Conviction rates averaged 94% (Cross, Walsh, Simone, & Jones, 2003). However, with respect to referral and screening for prosecution, there was a wide range of activity among the studies. The possible reasons for these differences across studies are many, including for example, differences in structure and process of investigation and cross-referral. Regardless of the cause, there is little agreement in actual practice on the preferred methods of dealing with child abuse cases. It appears that existing guidelines regarding law enforcement and child protection interaction are difficult to apply comprehensively in the field. For example, it is sometimes difficult to determine when criminal conviction is a desirable case outcome and when incarceration of the offender would only prove to be detrimental to the well-being of the child. Child welfare workers may tend to see all but the most egregious cases as better handled through therapeutic approaches; law enforcement officers and officers of the court may believe that less aggressive prosecution of those who assault or murder children versus those who assault or murder adults suggests that children are somehow less valued in our society (Chapman & Smith, 1987).

### **Inter-organizational collaborative efforts**

There is a long history of efforts to coordinate the work of law enforcement and child welfare as well as to address the problems and questions in working within the court systems [Besharov (1987, 1990); see also, e.g., the publications of the American Bar Association’s (ABA) Center on Children and the Law <http://www.abanet.org/child/home2.html>. For a brief review and recent status of team use, see Kolbo and Strong (1997); for cross-referral laws see NCCAN (2003); for a study of the effectiveness of one group of rapid response child advocacy teams, see Jenson, Jacobson, Unrau, and Robinson (1996).] The years of work on this problem highlight the complexity of inter-organizational and court collaborations including the balance of rights of the child and family, the appropriate role for the state, the sometimes conflicting goals of preservation of evidence and supporting the child and family, the inherently adversarial nature of court proceedings, and the varying procedures and time frames to which each agency or organization must adhere (see, e.g., Patton, 1992).

Almost 35 years ago, Kempe and Helfer (1972) made the case for interdisciplinary collaboration, and their approach carried forward in legislation through the Children’s Justice Act (Children’s Justice and Assistance Act of 1986), supporting the use of interdisciplinary teams to investigate child abuse and neglect (CA/N). The US Advisory Board on Child Abuse and Neglect (1995) favored implementation of quick response teams for very serious cases. Recently, the Office of Juvenile Justice and Delinquency Prevention published a series of 13 guides for law enforcement examining a number of different aspects of the investigative process (McNaughton, 2000), one of which focused solely on forming a multi-

disciplinary team to investigate allegations of child maltreatment. At the same time, attorneys' roles in civil and criminal proceedings have been explored, and there has been a concerted effort in court improvement projects (ABA Center on Children and the Law, 2003; Bech, 2000; Scahill, 1999).

In a study of child maltreatment coordinating committees, Skaff (1988) found equal member power and neutral committee setting increased the likelihood of participation. The opportunity for in-person communication about issues of immediate concern seems to have been one of the most important benefits of the committee approach to case handling. In Smith's case study of physical and sexual abuse prosecution in San Diego County (1995), a detailed understanding between CPS and law enforcement with respect to the order of contact with suspected perpetrators (law enforcement first), a specific process for handling of evidence, and coordinated activities seemed to result in relatively high rates of prosecution of physical abuse cases, 17–18%. It appears that the more successful arrangements go beyond implementing policies that mandate coordination or a specific model of multi-disciplinary collaboration. They focus on the daily details of communication and work activities, supporting frequent, direct communication. At the same time, the issue of equal power noted by Skaff (1988) suggests that what may be operating is mutual respect.

In a 2001 survey of local child protection agencies (US Department of Health and Human Services, 2003), a number of barriers to completing adequate CPS investigations were identified including lack of coordination between law enforcement and child protective services. At the time of the study, 16% of the responding local agencies were considering implementing or had implemented changes in the working relationship with law enforcement agencies. Examples given included co-location of law enforcement and child protective services staff, seeking legal counsel to address issues regarding conflicts between therapeutic and criminal justice response to specific cases of maltreatment, testing new ways of assigning cases, and cross training with local juvenile court judges.

### **Court practices in child protection**

Though child protection and/or law enforcement investigate the overwhelming majority of cases alleging child maltreatment, actual criminal prosecution is a relatively rare event, often depending on the type of maltreatment being investigated. For example, Stroud, Martens, and Barker (2000) found that 60% of sexual abuse cases involving female children, and 46% of cases involving boys, were involved in criminal action. Of these, 456 of 1043 children, were dropped by investigators (44%), 587 were referred for prosecution (56%), 320 of these were rejected or dismissed, 168 resulted in guilty pleas, and only 13 cases went for jury trial. Other findings suggest that from 1 to 16% of sexual abuse cases result in trial, with a larger percentage exiting the court system prior to trial. Cases may be diverted prior to referral to the Prosecutor, at the time of acceptance or denial by the Prosecutor, before charges are filed, as a result of procedures that follow a prior or subsequent arrest, at the time of a guilty plea, or through other resolution such as charges being dropped or dismissed (see e.g., Chapman & Smith, 1987; Cross, Whitcomb, & De Vos, 1995; Faller & Henry, 2000; Goodman et al., 1992; Gray, 1993; Smith, Goretsky, Elstein, Trost, & Bulkely, 1993; Stroud et al., 2000). Perhaps as a result, questions have persisted about the ways in which cases come to the attention of criminal Prosecutors and what happens to the cases once the Prosecutors are aware of them.

Though a greater percentage of cases undergo dependency proceedings as opposed to criminal prosecution, the overall percentage of CPS cases in this category is also relatively small. For example, Tjaden

and Thoennes (1992) reported, of 833 substantiated child maltreatment cases from Denver, Los Angeles and Newcastle, Delaware, only 21% resulted in dependency court filings and 4% in criminal court filing, although 50% of the children were placed out of their homes. It should be noted here that dependency court filings are often made to support the need for child placement away from home but may also be made to provide court oversight while the child remains at home (often known as “orders of protection”). An order of protection may be used when a family has not been cooperative, but the evidence available does not justify placement.

Similar to other studies, Tjaden and Thoennes (1992) found that one of the primary determinants of both criminal and dependency court action was whether the case involved sexual abuse. Finkelhor, Cross, and Cantor (2005) lay out a model of case processing for seeking justice for juvenile victims. Simply focusing on court action as an outcome, however, may tend to obscure the other outcomes and trajectories that accrue to child maltreatment cases, including child sexual abuse. For example, some of the reasons for a failure to prosecute sexual abuse cases are a lack of sufficient evidence, victim credibility as a potential witness, family or Prosecutor decisions not to proceed with prosecution, case involvement in dependency court, and unavailability of victims (Cross, Martell, McDonald, & Ahl, 1999). Gray (1993) reported four of the most common reasons cited by Prosecutors for not filing charges were: no corroborating evidence, the child’s story changed, the family opposed prosecution, and the young age of the child.

Children who are otherwise seriously injured or chronically neglected are much less likely to be seen by the criminal courts than child victims of sexual abuse. While in most cases of substantiated maltreatment the child can be protected through social service intervention, there are also numerous instances of very serious maltreatment that remain unknown to either law enforcement or Prosecutors. By more closely following cases from the time of their presentation to law enforcement or CPS, we sought to understand better the communication among the agencies and the reasons for the decisions made. With this understanding, it was hoped that mechanisms for more effective case processing among the various agencies could be identified.

Thus, although some studies have determined the rate of prosecution and a few have described the process through less detailed analysis, no other study has so comprehensively attended to the multiple sources of case referral, tracking the cases through each step in the system including both juvenile and criminal court. The present analysis was part of a larger study that examined justice system processing of serious child abuse and neglect cases (Davis & Wells, 1998). In this article, we detail the trajectory of cases through the CPS, law enforcement, criminal justice, and dependency systems from receipt of referral to court disposition in dependency and/or criminal court. The results reported herein are derived from information in the original data analyses and the original project technical report (Davis & Wells, 1996). The major research question for this analysis is: How are cases processed from the time of referral to CPS or law enforcement through the court systems?

## Methods

The study captured information from the perspective of each of the four primary agencies officially involved with child abuse. The first was law enforcement (LE) for whom child abuse is based solely on the crime, irrespective of the relationship between perpetrator and victim(s). Second, child protective services, for whom child abuse is defined by the maltreating behavior *and* the relationship between the perpetrator and victim(s) (generally a person in a caretaking role). Third, civil dependency court which

is involved in helping the child-victim by mandating services and, if necessary, removing the child from harm. Fourth, the criminal court that prosecutes regardless of the relationship between the child and the perpetrator.

This analysis focuses on two prospective samples: (1) from CPS and (2) from law enforcement. Cases from both sources could be tracked from the time abuse or neglect was reported in the original complaint to any of the agencies studied through the final disposition (case diversion or exit from the court system). The final disposition may have occurred in that agency, en route to the court (either the Prosecutor's office for the criminal court or the legal services division of the child welfare agency for the dependency court), or in the criminal or dependency court itself. Cases were cross-checked to determine their point of first entry. A qualitative analysis of case processing procedures was conducted through analyzing the referral patterns from one organization to another and through interviews with the participants in the process, for example, the Prosecutor, agency managers, the Sheriff, judges, court administrators, and others.

### *Site selection*

This study was based on one site selected using county-level data from the 41-county telephone survey integrated with National Incidence Study of Child Abuse and Neglect (NIS-3) (US Department of Health and Human Services, 1996). A mid-size county was selected for which all aspects of the systems' data collection appeared to be functional and in which all informants claimed that computerized systems existed to aid sample selection and data collection. In order to meet these criteria, the county was not representative of all or most counties in the country. Nevertheless, by selecting a county that had existing information systems, the likelihood of being able to track a case successfully was much greater.

In the United States Census for 1990 (US Bureau of the Census, 2002) the selected county had a multi-racial, multi-cultural population of over 1 million persons. The median age, the unemployment rate, and the poverty rate were about equal with that of the US as a whole. However, the rate of serious crimes known to police was about  $1\frac{1}{2}$  times that of the entire US. In addition the rate of reporting of child maltreatment was about 25% higher than that for the nation (US Department of Health and Human Services, 1998).

The organization of services, law enforcement agencies and court systems in the county was typical of those in other states. The catchment area of the child protective services agency overlapped the jurisdictions of both the municipal police and the county Sheriff resulting in ongoing relationships between the agency and several law enforcement organizations. There were a number of child protective field offices but only one central office with the others serving as satellites of the central office. There was one Prosecutor's office.

### *Sample selection*

To formulate sample plans and data collection instruments, staff from Child Protective Services, Dependency Court Legal Services (DCLS), law enforcement, and the Prosecutor's office were interviewed several times prior to data collection. In order to understand within-agency caseloads and case processing it was necessary to examine: the mission and types of cases that composed the agency caseload, the agency definition of child abuse and neglect, how cases were processed through each agency (trajectories of flow within the agency), and what policies and procedures governed each agency for referring cases

Table 1  
Study sample

	Child protective services <sup>a</sup>		Sheriff <sup>b</sup>	
	Substantiated intakes	<i>n</i>	Arrests and complaints without arrest	<i>n</i>
Prospective	1/1/93–10/1/93	225	Arrests 1993 Complaints 1/1/93–5/17/93	100 125
Total		225		225

<sup>a</sup> Substantiated visible/serious physical injuries, sexual abuse, close confinement or restraint, abandonment, malnutrition/failure to thrive, medical neglect, child death related to CA/N.

<sup>b</sup> All child abuse as per child welfare statute plus murder, manslaughter, vehicular homicide, aggravated assault, sexual battery, battery, and kidnapping of child victims. Initial sample included all perpetrators, regardless of relationship to victim. Non-relatives accounted for 85% of the Sheriff-Complaint sample, over 50% of the Sheriff-Arrest sample and 20 and 28%, respectively of the CPS sample. Non-relatives included friends, baby-sitters, acquaintances and strangers. Strangers would not have been included in the CPS sample due to statutory definitions of child abuse and neglect. (The perpetrator must be a caretaker.)

to other agencies. Table 1 summarizes the source, nature, and size of the samples. A description of the process follows.

In identifying the prospective sample of substantiated CPS cases, it was important to ensure that they would have some likelihood of involvement with law enforcement and/or some type of court proceeding. In addition, it was important to allow sufficient time from the beginning of the case to the ultimate court disposition (should the case go to court). To this end, a list of cases reported in 1993 was obtained. The list included only those cases that were substantiated and which included one or more of the following: (1) visible and/or serious physical injuries, (2) sexual abuse, (3) close confinement or restraint, (4) abandonment, (5) malnutrition and/or failure to thrive, (6) medical neglect, or (7) any child death related to child abuse or neglect.

A total of 293 substantiated cases reported in 1993 met the study criteria for serious abuse or neglect. A total of 477 cases were substantiated in the study catchment area during fiscal year 1993–1994. The first 225 reported cases that met the criteria were identified for in-depth tracking.

For the Sheriff's office, it was first necessary to determine the constellation of crimes that could be defined as child abuse. While child abuse cases are handled by a specialized unit, it is also possible that certain types of child abuse, such as homicide would be handled by another unit. Thus, the sampling frame in the Sheriff's office included all cases involving juvenile victims of murder, manslaughter, vehicular homicide, aggravated assault, sexual assault, battery, and kidnapping. All arrests that fell within the definition of these crimes in the criminal statute and that met the victim criteria (a child under 18) were included. It was not possible to screen at the point of sampling for the relationship of the perpetrator to the child nor for perpetrator age. Therefore, some cases that were included in this sample were situations of teen violence. These cases were identified in the later case record matching process, but they could not be eliminated at the time of the original sampling.

The original goal was to select 225 arrest cases from the Sheriff's office. However, there were not that many arrests in the period of interest so the sample was selected in two phases. In the first, all arrests in 1993 for the list of crimes in which a child was a victim were selected ( $N = 100$ ). In phase two of the selection process, the first 125 complaints in 1993 in which the victim was a child were selected.

In the Prosecutor's office, the Child Abuse Unit (CAU) specialized in the prosecution of crimes against children. This unit prosecuted cases involving severe or aggravated child abuse where the abuse

or neglect resulted in the death of the child or where there was evidence that the child was a victim of sexual assault. The misdemeanor division focused on misdemeanor cases that were not appropriate for the Child Abuse Unit. Cases in the Prosecutor's office may have consisted of a single defendant or multiple defendants at the discretion of the Prosecutor. A case may have had one or more victims and pertain to more than one incident.

When an arrest was made, the division chief could: file felony charges and proceed with the case, file felony charges and enroll the defendant in the pretrial intervention program, reduce the charges to misdemeanors, decline prosecution, or defer prosecution.

### *Data collection instruments*

Six primary instruments were constructed. The: (1) Case Identifier Workbook was designed to document data collection status and demographic information of all persons involved in a case; (2) Maltreatment Abstract was designed to capture data from all four agencies on the maltreatment events, their nature, severity, consequences, background and circumstances; (3) CPS Abstract captured maltreatment specifics and case activity; (4) Dependency Court Legal Services Abstract captured information on the status of the case, and court actions and outcomes; (5) Law Enforcement Abstract was used to collect information on the dates of the incident, the perpetrator, the report to law enforcement, and law enforcement response; and (6) Prosecutor's Abstract extracted information from the case files of assistant Prosecutors and from the Clerk of Court files.

### *Data collection*

Local data collectors were dedicated to each agency and trained on how the agency handled cases; 2 days of initial training were provided, but procedural refinements and training of field staff were ongoing activities. Data collection involved a series of start up activities in which data collectors reviewed and collected information from home agencies, followed by a case matching process to ensure that cases were matched across all agencies so (1) cross-agency involvement was known for each case and (2) duplication of cases in the sample was identified and dealt with to yield a sufficient number of unduplicated cases. Case linkages were made based on name and birth date. This information was kept completely separate from the information collected about the child, family, maltreatment incident and agency intervention that was collected for the case processing analysis. All data collected for the analysis was completely de-identified. The project met all requirements of Westat's human subjects review board that were in place at the time of the study.

## **Results**

### *Sample characteristics*

Tables 2 and 3 illustrate the distribution of sample characteristics across agency of origin. Major differences were observed in gender, number of victims, age of victims, and maltreatment type. For example, physical abuse was the most common type of abuse among Sheriff's office cases. Physical neglect was the most common type of maltreatment reported in DCLS cases while it was rarely reported in law enforcement cases.

Table 2  
Percentage study sample by type of maltreatment<sup>a</sup>

Type of maltreatment	Child protective services	Sheriff-Arrest	Sheriff-Complaint
Physical abuse/assault	39 <sup>b</sup>	72	86
Sexual abuse/sexual assault	49 <sup>b</sup>	23	13
Neglect	28	2	1
Emotional abuse or emotional neglect	9	20	13
	<i>n</i> = 225	<i>N</i> = 100	<i>N</i> = 125

<sup>a</sup> Percentages do not total 100% for each sample because a case could have more than one type of maltreatment.

<sup>b</sup> Included cases in which the parent or caretaker knew of the abuse but failed to protect the child.

Table 3  
Percentage distributions of cases by demographic characteristics of perpetrators and victims<sup>a</sup>

	CPS ( <i>n</i> = 225)	Sheriff-Arrests ( <i>N</i> = 100)	Sheriff-Complaint ( <i>N</i> = 125)
Perpetrator characteristics			
Number of perpetrators per case			
One	81	96	89
Two	16	3	10
Three	3	1	2
Perpetrator's sex			
Male	58	88	74
Female	24	12	21
Both	18	1	4
Perpetrator's age			
≤18	1	8	48
19–25	15	32	14
26–35	44	32	12
36–45	35	27	9
46–55	9	5	5
≥56	7	0	0
Perpetrator's race			
White	53	69	50
Black	39	26	42
Hispanic	1	0	0
Other	4	0	0
Mixed	4	9	0
Victim characteristics			
Number of victims per case			
One	78	84	94
Two	15	12	5
Three	4	2	1
Four	2	2	0
Five	1	0	0

Table 3 (Continued)

	CPS ( <i>n</i> = 225)	Sheriff-Arrests ( <i>N</i> = 100)	Sheriff-Complaint ( <i>N</i> = 125)
Six	0	0	0
Seven	.4	0	0
Victim's sex			
Male	39	40	57
Female	72	65	45
Victim's age			
≤3	16	8	2
4–7	26	6	10
8–11	30	11	22
12–14	28	32	33
≥15	16	52	38
Victim's race			
White	52	71	59
Black	37	25	38
Hispanic	1	0	0
Other	0	0	3
Mixed	4	5	0

<sup>a</sup> Percentages are based on the number of cases sampled from each agency. Percentages may sum to more than 100 since each case could have more than one perpetrator or victim. Percentages may also sum to less than 100 due to missing information.

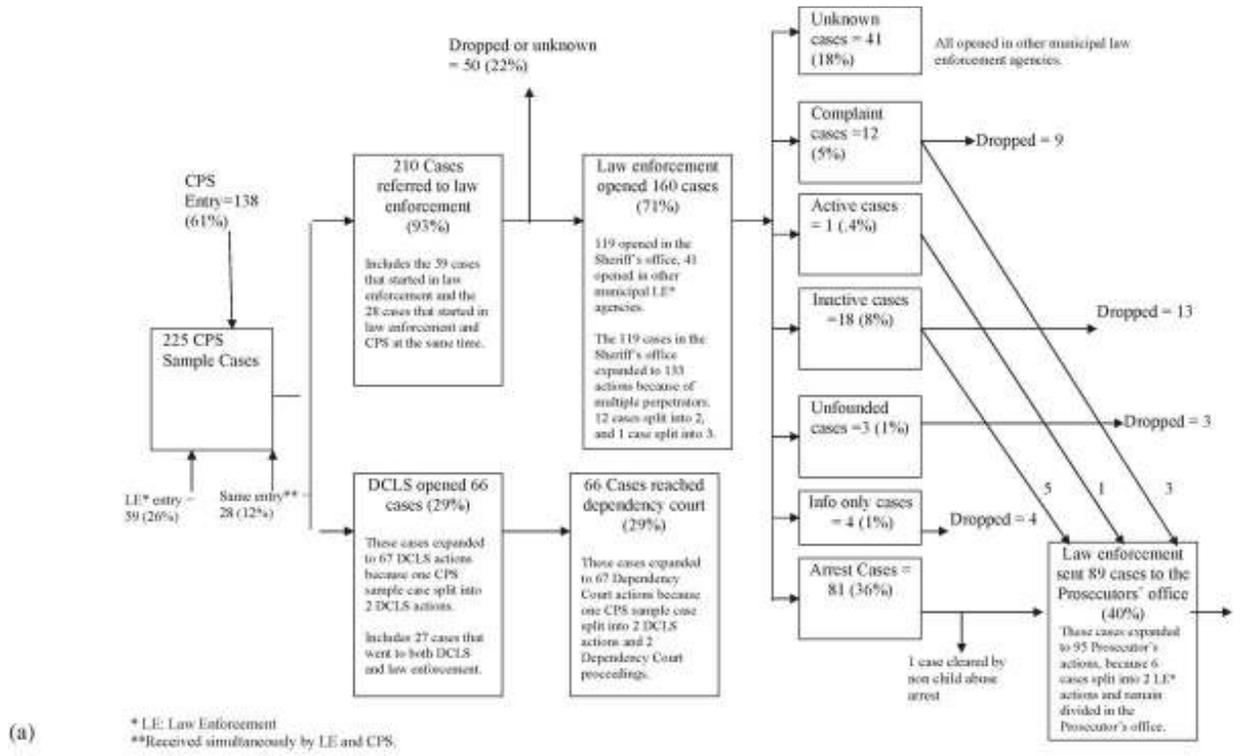
### Case flow

*CPS sample.* The movement of the CPS cases is presented in Figure 1. Each case represents a substantiated report of intra-familial/caretaker abuse. The boxes in the figure report the movement of cases along the paths and branches as percentages of the original 225 CPS cases.

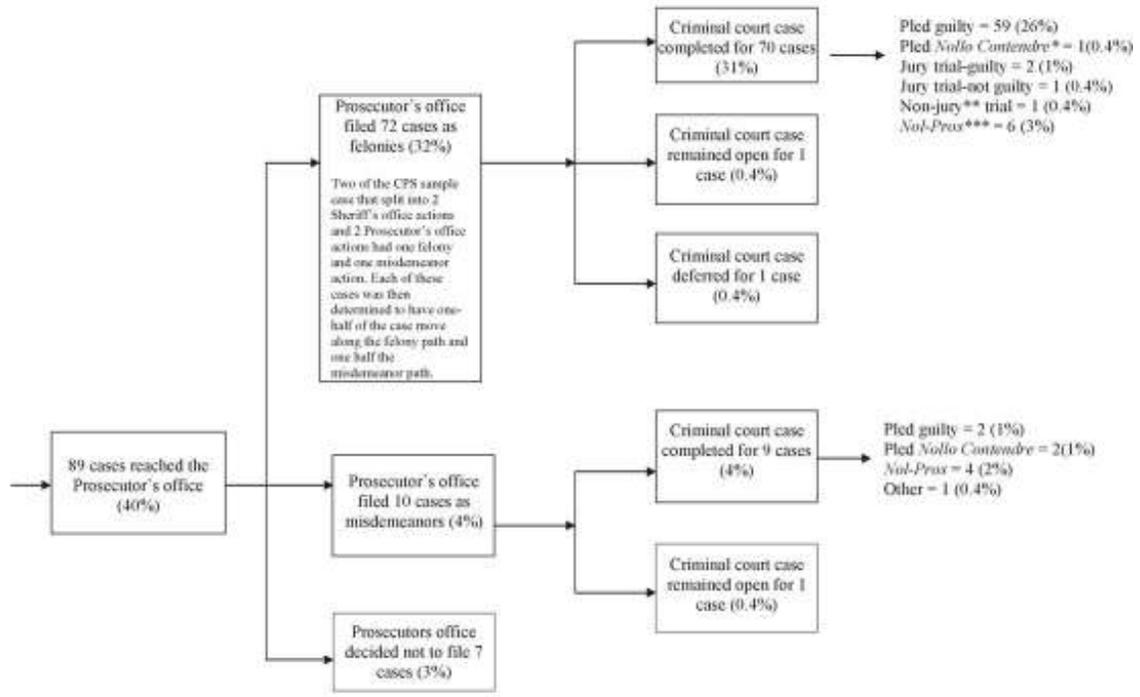
*CPS referrals to DCLS and law enforcement.* After CPS completed its investigation, the agency's legal services division (DCLS) took action on 66 (29%) cases, and all of these received dependency court filings. Two hundred ten cases (93%) were reported to law enforcement for criminal investigation. Of the 138 not already known to law enforcement, 89% were referred to law enforcement. One hundred sixty cases (71%) referred to law enforcement were opened for investigation. The remaining 50 cases were either dropped by law enforcement or of unknown status. Forty-one cases were opened by other municipal law enforcement agencies and were not tracked in this study unless filed as a felony in the Prosecutor's office.

More than 1/3 (36%) of CPS sample cases led to an arrest. Only small percentages of CPS sample cases in the Sheriff's office were classified as inactive or information only. After being opened and classified in law enforcement, cases were either dropped at that stage or sent to the Prosecutor's office for possible criminal court action.

*Law enforcement to prosecutor and prosecutor's filing.* Eighty-nine cases (40% of the original CPS sample) with sufficient evidence and witnesses to ensure a reasonable chance of conviction were forwarded to



(a)



(b)

\**No/No contempré* is a plea of no contest to the charges.  
 \*\* Non-jury trial indicates the defendant waived the jury and the case was heard and decided by the judge alone.  
 \*\*\* *No/Prox* is a plea of no proximate cause.

Figure 1. CPS sample cases.

the Prosecutor's office. The remaining 30 cases opened in the Sheriff's office were dropped. Examination of Figure 1 reveals that after reaching the Prosecutor's office, CPS sample cases were filed as felonies or misdemeanors or not filed at all and classified as "No files." Weekly meetings between law enforcement and the Prosecutor's office led to a high level of filings once cases reached the Prosecutor's office. Only 3% of cases from the original CPS sample were not filed in criminal court after reaching the Prosecutor's office. A total of 36% of cases in the original sample were filed in criminal court by the Prosecutor's office; almost 1/3 were filed as felonies and 4% as misdemeanors.

Insufficient evidence was the most common reason the Prosecutor decided to drop a case. For these cases, the Prosecutor's office also cited the age of the victim and the child's best interest as part of the explanation for not pursuing them in the criminal court. Other reasons were generally based on ability to obtain credible testimony. The 32% of CPS sample cases filed as felonies in the Prosecutor's office either: reached criminal court and were completed, or reached criminal court and remained open, or alternatively, were deferred by the Prosecutor. Felony cases may also have had misdemeanor charges filed simultaneously.

*Criminal proceedings.* Thirty-one percent of the CPS cases continued to the Prosecutor's office and had completed criminal court proceedings at the time of data retrieval. In more than 1/4 of CPS sample cases, the perpetrator pled guilty. Three percent of the criminal court cases were classified as "nol-pros" (a commonly used abbreviation of *nolle prosequi*, meaning dropped by the Prosecutor) and dismissed. In two of the three cases reaching jury trial, there was a guilty finding. There was only one instance of a non-jury trial and one plea of no contest. Each of these outcomes represented less than one percent of the CPS sample cases. Other criminal dispositions concerned a handful of cases that remained open, were deferred, were not prosecuted ("nol-pros"), were misdemeanors, or were pled guilty.

*Sheriff arrest sample.* Of the 225 cases sampled in the Sheriff's office, 100 were arrests. The movement of these cases through CPS and law enforcement is outlined in Figure 2. The unit of analysis for the Sheriff-Arrest sample was the perpetrator. There were 104 perpetrators in the 100 sampled arrest cases. The percentages reported reflect the total of 104.

*Point of entry.* Ninety-seven percent of the arrest cases sampled in the Sheriff's office had first been reported to law enforcement. Only two cases had first been reported to CPS and one case had entered both agencies simultaneously. Of the perpetrator cases opened by Sheriff-Arrest, 17% were investigated by CPS, and 95% were sent to the Prosecutor's office for possible prosecution. In addition, five cases with juvenile perpetrators were referred to juvenile court.

*CPS investigated case and DCLS cases.* A case was considered appropriate for CPS investigation if it met one of the following criteria: (1) any perpetrator was a member of the victim's household, (2) any perpetrator was related to the victim, or (3) a caretaker could be accused of having failed to protect a victim from whatever abuse had occurred. According to case reader's judgments, 62% of the perpetrator cases in the Sheriff-Arrest sample met one or more of these criteria. However, only 18 cases (17% of perpetrators and 28% of applicable cases) actually were investigated by CPS. Eliminating cases already known to CPS (3%), 25% of the cases were new referrals to CPS. Three cases proceeded to DCLS and on to dependency court.

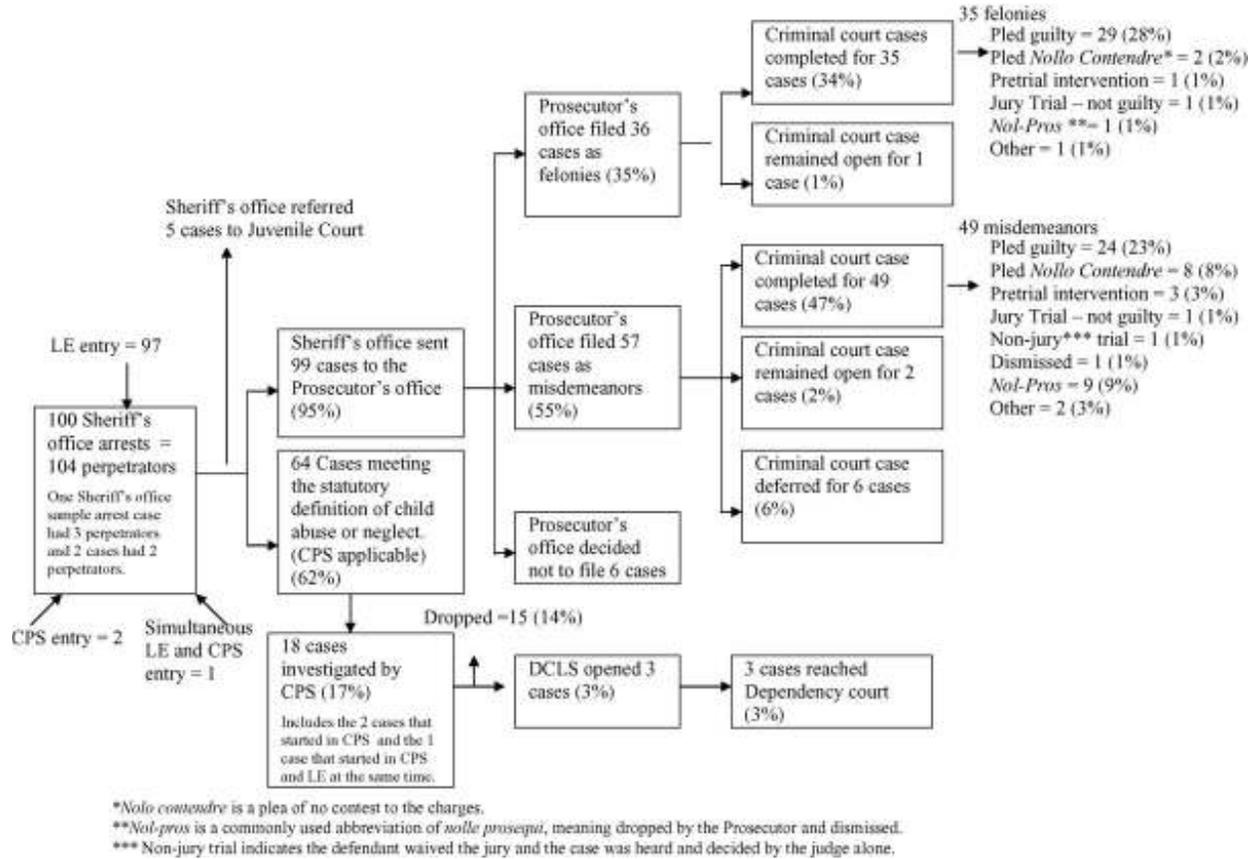


Figure 2. Sheriff's arrest sample cases.

*Sheriff's office to prosecutor and prosecutor's filing decision.* Ninety-five percent of the cases went on to the Prosecutor's office. Five cases were referred to Juvenile Court. Six (6%) of the referred cases were not filed by the Prosecutor's office due to: need for further investigation, insufficient evidence, victim whereabouts unknown, resolution of difference between victim and perpetrator, and other reasons. Thirty-five percent of perpetrator cases from the Sheriff-Arrest sample were filed as felonies. The Prosecutor deferred no felony cases.

*Criminal proceedings.* Of the perpetrator cases that were filed as felonies, 34% reached criminal court and were completed. More than one quarter (28%) of the arrested perpetrators in the sample pled guilty in criminal court, 2% pled no contest to the charges. Other cases were dismissed, went to trial or were found not guilty. Nearly all of the perpetrator cases filed as misdemeanors (49 cases) were completed in criminal court.

The outcomes for misdemeanors and felonies in the Sheriff-Arrest sample were largely similar. Twenty-three percent of the perpetrators pled guilty to the charges filed. Ten percent of the cases were "nol-pros" dismissals in criminal court, and in 8% of the cases there was a no contest plea. Four cases (4%) resulted in pretrial interventions that led to case closing. Two cases reached trial, one of which was a no jury trial and the other a jury trial in which there was a finding of guilt. Two percent of

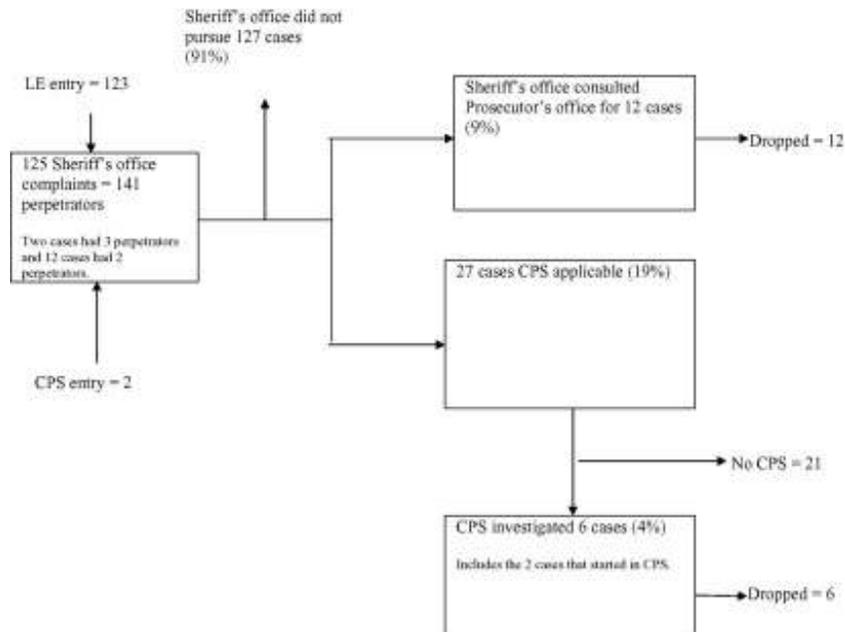


Figure 3. Sheriff-Complaint sample cases.

cases had “other” outcomes, one conditional release after the victim denied the incident and one case indicating only that the defendant had been booked in to jail. The Prosecutor’s office deferred 6 misdemeanor cases (6%). The conditions of the contract leading to deferral included restrictions on firearms, drug and alcohol use, requirements to work regularly, and to register for counseling within a specific time.

*Sheriff-Complaint sample.* The movement of the remaining 125 Sheriff’s office complaints is depicted in Figure 3. Once again, the unit of analysis is the perpetrator (141 perpetrators in the 125 case sample).

Ninety-eight percent of complaints against perpetrators originated in law enforcement, while only two having begun in CPS and then referred to law enforcement for action. The Sheriff-Complaint sample moved in two directions: (1) CPS investigated 6 (15%) cases; and (2) the Sheriff’s office consulted the Prosecutor’s office about 12 (9%) cases. Six (of the 19% eligible for CPS) were investigated by CPS. None of the cases sent to CPS was opened by DCLS for dependency court action. In 9%, the Sheriff’s office consulted the Prosecutor’s office before deciding not to pursue them; 91% were dropped directly.

Many of the Sheriff’s complaint sample cases involved fights between children; 43% of the Sheriff’s office sample complaint cases were classified as “kids on kids” crimes. In these cases, siblings, cousins, or friends kicked, punched, or made threats against one another.

## Discussion

The major findings of this analysis were the degree to which: (1) case processing mirrored prior studies in wide ranging jurisdictions, (2) physical abuse cases were prosecuted, (3) cases appropriate for CPS

and known to law enforcement were not referred to CPS, (4) factors outside the case processing protocols affected actual referrals and (5) case tracking across organizations was hindered by internal organizational systems.

### *Similarities and differences in case processing*

The case flow patterns in this study revealed both similarities and differences to the findings of other studies. Of the 225 cases in the CPS sample, 66 (29%) were opened in dependency court. This is very similar to Tjaden and Thoennes' (1992) findings in two of the jurisdictions they examined (29% in Denver and 24% in Los Angeles). Because the cases sampled in the current study focused solely on more serious maltreatment cases than those in the Tjaden and Thoennes study (included all substantiated maltreatment), a higher rate of movement to dependency court may have been anticipated in this study. The similarities suggest that factors other than the nature of the abuse have an important influence on the involvement of the court.

Some differences between the findings of this study and those of earlier research can be seen in the movement of cases to the criminal court. Of the 225 cases sampled in CPS, 71% were investigated by law enforcement. Fifty-one percent of the CPS cases investigated by law enforcement were then referred to the Prosecutor's office (40% of all CPS cases). In 92% of the cases referred to the Prosecutor's office (36% of the original CPS sample), criminal charges were filed (72 felonies, 10 misdemeanors). The 92% rate of filing is higher than that of 63% reported by Chapman and Smith (1987) and the 60% reported by Cross et al. (1995).

On the other hand, 4.5% of the CPS sample cases referred to the Prosecutor's office resulted in a trial. Four percent of 100 cases from the Sheriff-Arrest sample similarly resulted in a trial. These figures are congruent with previously reported rates, which range from 1% to 16% (Chapman & Smith, 1987; Cross et al., 1995; Goodman et al., 1992; Gray, 1993; Smith et al., 1993; Stroud et al., 2000), and confirm the findings of these previous studies that criminal trials in child maltreatment cases are relatively rare.

However, the rate of prosecution represents almost 10 times the rate of filings found in the Tjaden and Thoennes study. In that study, only half of the cases filed in criminal court were for felonies, compared to 88% in the current study. Once again, this may be in line with expectations because this sample was specifically focused on serious child abuse while Tjaden and Thoennes followed all substantiated cases. The magnitude of the differences also supports the survey and case study findings of Smith (1995) that filing policies across different jurisdictions vary greatly.

### *Prosecution of physical abuse cases*

The finding that sex abuse cases are most often prosecuted is not news. What is different and noteworthy is the degree to which physical abuse cases are also prosecuted. The referral rate to the Prosecutor is not as high as in some studies (40% for CPS cases that are referred through law enforcement), but the acceptance rate and prosecution rate are much higher than most prior sites studied. As in prior studies, the reasons for not filing included need for further investigation, insufficient evidence, victim issues such as age, unknown whereabouts, willingness to testify, and the victim's best interests. Of the misdemeanors that were deferred, the Prosecutor required agreements from the perpetrator with respect to use of firearms, abuse of drugs and alcohol, seeking counseling and maintaining a job.

### *Referrals to CPS from the sheriff*

CPS involvement in the Sheriff's office samples was in part determined by the relationship of the perpetrator to the victim(s). Initially, 61% ( $N = 100$ ) of the Sheriff-Arrest cases were considered applicable to CPS (i.e., involving a child's parent or caretaker). CPS investigated 18 of these cases and three went to dependency court. Nineteen percent of the Sheriff-Complaint sample contained cases that could be considered CPS applicable, but only 4% of the cases were actually investigated by CPS and none resulted in dependency court actions. The reasons for this rate of cross-referral can't be known from this study. However, it is a finding that deserves further attention in future inquiries.

### *Factors affecting referrals*

The contrasting rates of referral from the Sheriff's office to the Prosecutor and to CPS suggest there was more at work in the case referral process than following an established protocol. The literature on collaboration suggests specificity of work activities, direct personal communication and the degree of mutual positive regard may affect the amount and effectiveness of collaboration across organizational boundaries. While the study did not focus specifically on communication, the respondents' descriptions of their collaborative relationships and communication suggest this may be a fruitful area for further study.

### *Potential for case tracking across organizations*

In the funding of the study, one of the funder's goals was to determine the feasibility of tracking cases across organizations in order to more effectively track seriously offending perpetrators, such as sex offenders. While it was possible to track these cases, the various intra-organizational filing systems and case processing practices radically increased the time and effort required to successfully track a case among different organizations. Any effort that relies on cross-organizational case identification will need to develop more systematic methods for case identification. Without this ability, positive collaborative relationships will be meaningless.

## **Study limitations and strengths**

The limitations of the study focus on the use of a single site and the lack of a comparison site. In addition, due to the nature of record keeping in some of the agencies, it was not always possible to know that all of the cases from the time period were represented in the sampling frame. One example of this complexity is found in the Prosecutor's office. It is also possible that one might cite the expansions of multi-disciplinary teams and Child Advocacy Centers in the mid to late 1990s may limit the relevance of findings from data collected in the early 1990s when such teams were less prevalent. However, multi-disciplinary teams were in existence in the jurisdiction studied. In addition, the findings reported herein suggest regardless of the collaborative structure in place, it is the nature of the communication that determines the effectiveness of collaborative efforts.

The study strengths include the care with which cases were tracked across systems, the thoroughness of case discovery in each system, the matching process and the depth of information collected about the

case. By focusing on one site, the investigators were able to gain a thorough knowledge of all of the possible case pathways and then to search effectively for all possible connections. This study represents perhaps one of the most thorough cross-agency tracking studies conducted to date.

## Implications

In this study, the close communication and relationship between the Sheriff's office and the Prosecutor's office as evidenced in the frequency of cross referrals may have facilitated the identification of cases that the Prosecutor would judge appropriate for filing. Likewise, the less frequent and less systematic personal communication between CPS and the Sheriff's office may have been a key factor in the failure to find CPS eligible cases from the law enforcement files also in the CPS files.

The low rate of CPS involvement in seemingly eligible law enforcement cases is especially troubling. It is unknown how much of this may be due to the fact that the cases were screened out by CPS rather than not referred to CPS from the Sheriff's office. If these cases represent missed opportunities at ameliorative intervention, they clearly point out the need for ongoing communication between these two crucial components of the child protection system.

Stated somewhat differently, "[I]f the system is going to save children, the responsibility must be seen as a collaboration among social service, public health, education systems, law enforcement, and the courts" (US Advisory Board on Child Abuse and Neglect, 1995, p. 107). This also speaks to the need for CPS agencies to continue updating their case files with information from other agencies involved in child maltreatment as cases progress. Returning to the concept of therapeutic jurisprudence, the intervention cannot be considered therapeutic if it only results in referrals in one direction—to prosecution; and not to intervention in the other direction—to child protection.

## Conclusions and recommendations

The extent of cross-referral between the Prosecutor's office and the Sheriff's office suggests ongoing communication such as that described in the literature by Smith (1995) and by Skaff (1988). For example, the opportunity for in-person communication, specific detailed understandings about mutual case handling, and a concern regarding frequent direct communication about work activities. In this study, as in prior studies, it appears that such communication (as evidenced through the case coordination) results in a more unified approach to case management. Where the consistent communication was lacking, between CPS and the Prosecutor's office, there was less evidence of coordinated multi-agency response and less cross-agency knowledge of cases. While it is known that communication is a key element of collaboration and multi-agency case processing, it appears that the degree of direct personal contact with mutual goals for the case is critical to successfully processing the case through the system. This is a notable finding for all child protection systems. The site chosen for this study was known for collaboration but the actual implementation of the protocols was the point at which effective communication was either facilitated or hindered. Therefore, it is not sufficient to rely on the existence of Multi-disciplinary Teams or Child Advocacy Centers. The success of any protocol or collaborative arrangement lies in its day-to-day implementation.

On the technical side of collaboration, the use of common case identifiers across agencies is also recommended. Experience in the data collection phase of this study emphasized the difficulty in matching

cases when agencies collect information based exclusively on their own mission driven needs to the exclusion of collaborative/liaison requirements. While this is a very difficult undertaking, advances in technical capabilities put it in the realm of possibility.

A final recommendation for future research is to broaden the scope of inquiry to include the consequences of other decision-outcomes (in addition to following cases to trial). Focus should also continue on the entire population of cases to gain a more comprehensive picture of the relationship between child maltreatment and the courts.

In conclusion, it is important to point out that this was a case study of one jurisdiction and the results should not be presumed generalizable to all jurisdictions. However, the opportunity to examine the full range of cases, from initial receipt of referral to ultimate outcome in all of the primary systems responsible for protecting children from abuse and neglect, is rarely found in the literature. In their examination of fatal child abuse, the U.S. Advisory Board on Child Abuse and Neglect concluded, “We must confront the fact that this larger system is not playing the role that it could” (1995, p. 107). These findings provide more information about cross-system referral processes and the issues that must be constantly addressed in multiple ways, even in apparently well-functioning community response systems.

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## Résumé

**Objectif :** Cette étude avait pour but d'examiner le trajet des cas à travers quatre systèmes: la protection de l'enfance, les services policiers, les cours familiales et les cours criminelles.

**Méthode :** L'étude s'est déroulée dans un des 41 comtés qui ont fait l'objet d'une enquête téléphonique menée dans le cadre d'une étude américaine nationale sur l'incidence de la maltraitance et de la négligence. L'échantillon comprenait 225 cas tirés des casiers judiciaires et 225 cas venant des services de la protection de l'enfance du comté. Ils ont fait l'objet d'un suivi en profondeur touchant toutes les agences et les deux types de tribunaux.

**Résultats :** Le pourcentage des cas de la protection de l'enfance qui étaient orientés vers les cours non criminelles était semblable au taux rapporté dans des études antérieures (29%), mais le taux de cas acceptés par ces cours et faisant l'objet de poursuites était beaucoup plus élevé: 92% des cas venaient des services de protection de l'enfance; plusieurs étaient des cas de mauvais traitements physiques. Comparés aux cas que les services de protection ont orienté vers la police (93%), peu de cas étaient orientés dans le sens contraire (17%). Dans une perspective anecdotique, on note que la gestion des cas est influencée par la nature des communications et le respect mutuel entre les systèmes, et moins par des protocoles établis. Ce qu'on a remarqué de plus intéressant c'est le degré de difficulté à tracer le suivi, d'un organisme à l'autre, et les obstacles qui rendent l'interaction entre les systèmes difficile. Ce n'est pas le manque d'organisation qui entrave la collaboration mais plutôt les mécanismes-mêmes qui sont mis en place pour ces fins qui en deviennent les obstacles.

**Conclusions :** Ce n'est pas suffisant de compter sur les équipes pluridisciplinaires ou les centres de défense des droits des enfants pour assurer la collaboration entre les systèmes. Plutôt, il faudrait s'occuper des menues tâches et activités quotidiennes et de la nature et la qualité des communications. Au point de vue technique, le recours à des points de repères pour identifier la circulation des cas d'un système à l'autre est à recommander. Il faudra des paramètres plus larges que ceux de l'étude présente pour mieux connaître ce qui se passe dans tous les divers trajets, plutôt que de se pencher uniquement sur le système judiciaire.

## Resumen

**Objetivo:** El objetivo de este estudio fue examinar la trayectoria de casos a través de cuatro sistemas: protección infantil, policía, juzgados de dependencia y juzgados penales.

**Método:** Este estudio se centró en un condado seleccionado de una entrevista telefónica a 41 condados llevada a cabo por Estudio Nacional de Incidencia del Maltrato y Negligencia Infantil (NIS-3). Para este análisis se seleccionaron muestras provenientes de la policía ( $n = 225$ ) y del servicio de protección infantil (SPI) del condado ( $n = 225$ ) que fueron seguidas a través de un estudio en profundidad de los casos en todas las agencias y a través tanto de los sistemas judiciales criminal y de dependencia.

**Resultados:** El porcentaje de casos del SPI abiertos en el Juzgado de dependencia fue similar al observado en estudios previos (29%), pero las tasas de aceptación y encausamiento fueron mucho más altas: un 92%

de los casos derivados desde el SPI, incluyendo muchos casos de maltrato físico. En comparación con las derivaciones del SPI a la policía (93%), pocos casos fueron derivados de la policía al SPI. Los patrones de derivación de los casos parecen estar influidos por los patrones de comunicación y por las opiniones mutuas positivas y no por un protocolo estable de colaboración. Uno de los hallazgos más instructivos fue el grado de dificultad para hacer el seguimiento de los casos a través de las diferentes organizaciones y el tipo de obstáculos que impiden el éxito. La desorganización no fue la cuestión principal. Más bien, las estructuras internas creadas para facilitar el proceso interno de las organizaciones fueron las mismas estructuras que realmente impiden el hallazgo de los casos a través de las organizaciones.

**Conclusiones:** No es suficiente fiarse de la existencia de equipos multidisciplinarios o de Centros de Apoyo a la Infancia para asegurar la colaboración. Se necesita poner más atención en las tareas y actividades diarias así como en la naturaleza y la calidad de la comunicación. Desde el punto de vista técnico, se recomienda el uso del mismo código de identificación para aquellos casos que pasan de una organización a otra. Los estudios futuros deben ampliar la perspectiva de la investigación para incluir las consecuencias de las trayectorias de los casos, más que centrarse únicamente en el sistema judicial.