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# Advocacy's Role in Identifying Dysfunctions in Agencies Serving Abused and Neglected Children

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*This qualitative study addresses how the various agencies (e.g., child welfare, juvenile court, mental health, education) that are responsible for providing services to abused or neglected children or children with disabilities fulfill their responsibilities to a population of foster children with disabilities. The study focuses on the interventions undertaken by legal advocates on behalf of 12 children who were removed from the homes of their parents because of abuse or neglect. It reveals the specific failings, inadequacies, and abuses within and between the multiple agencies responsible for providing services to the children.*

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**T**here has been a growing recognition by the child welfare and legal communities that children removed from the homes of their biological parents by the court because of abuse or neglect are frequently further mistreated by the agencies designated to provide for their well-being (Howing & Wedarski, 1992; Janko, 1994; National Council of Juvenile and Family Court Judges [NCJFCJ], 1986). This mistreatment has been attributed to such factors as "the insensitivity of rigid legal and administrative systems which have no regard for delay" (NCJFCJ, 1986, p. 13); caseworkers left to make too many decisions alone, without adequate training, supervision, or guidelines (NCJFCJ, 1986; Wald & Woolverton, 1990); the lack of immediate and effective treatment and coordinated planning and resources (NCJFCJ, 1986; Soler & Shauffer, 1990); and an inadequate number of available resources (Janko, 1994; Jellinek et al., 1992; Wald & Woolverton, 1990).

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Abused and neglected children in general face daunting problems as they negotiate the system of multiple agencies responsible for their care. These problems multiply considerably for abused and neglected children with disabilities. A lack of sufficiently trained foster parents and specialized foster homes for children with disabilities is a serious problem (NCJFCJ, 1986). Inadequate screenings and a lack of coordination of services frequently result in the failure to provide appropriate services for abused and neglected children with disabilities (NCJFCJ, 1986). There is an insufficient number of quality group homes and residential programs and a lack of mental health (Knitzer, 1982) and educational services (Bauer, 1993; Howing & Wedarski, 1992).

A large percentage of children in foster care have been shown to have disabilities. Bauer (1993) reported that 25% of the 400,000 children in foster care in the United States on any given day have disabilities. Richardson and her colleagues (Richardson, West, Day, & Stuart, 1989) found that 40% of all children in out-of-home care are developmentally delayed. In a study by McIntyre and Keesler (1986), nearly half the population of children in foster care manifested evidence of psychological disorders.

In recent years, researchers have proposed ways to improve the system of care for youngsters with the most severe emotional and behavioral disabilities (Behar, 1985; Friedman & Street, 1985; Nelson & Pearson, 1991). Attention has also been focused on

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the importance of advocacy efforts on behalf of children (American Bar Association, 1996; Richart & Bing, 1989) and particularly children with mental and developmental disabilities (Knitzer, 1982, 1989; Landau, 1990; Soler & Warboys, 1990). Although legal advocacy is commonly used as a mechanism for furthering rights and enforcing entitlements to services, it is less frequently recognized as an avenue for exposing the abuses and inadequacies of the various systems serving those with disabilities (Knitzer, 1989; Murphy & Bradley, 1979).

The study reported here focuses on interventions undertaken by legal advocates on behalf of children with disabilities who were removed from the homes of their parents because of abuse or neglect. It reveals the specific failings, inadequacies, and abuses of the multiple agencies (e.g., child welfare, mental health, school districts) responsible for providing services to these children.

Previous studies have focused on the ways abused or neglected children are mistreated by the agencies responsible for their care. One area of study (Jellinek et al., 1992; Schwartz & Ortega, 1992) has focused on the low probability of securing permanent family placements for children who have been removed from the homes of their parents because of abuse or neglect. Other studies have focused on the severe consequences multiple placements and frequent changes of living situation have on children (Schwartz & Ortega, 1992).

Other research has examined problems within the agencies responsible for serving abused and neglected children and their families. Janko (1994) provides qualitative data on the difficulty of obtaining services for vulnerable families who still have custody of their children and the equal difficulty of getting children returned to their families once they have been removed. Jellinek et al. (1992) attributed the lack of permanent family placements for abused and neglected children to a court process that "takes place within a time frame poorly suited for children." There is also documentation of problems that exist in child welfare agencies, such as a lack of service plans specifically tailored to the needs of each family, a failure to facilitate referrals to counseling services, and failure to notify parents or guardians when a case is transferred from one social worker to another (Los Angeles County Grand Jury, 1992-1993).

The study reported here makes both a substantive and methodological contribution to the literature. Substantively, it provides a detailed view of the types of service needs the children have, the various agencies responsible for meeting these needs, and the problems encountered by clients attempting to use these services. Methodologically, the study uses as the primary source of data the legal interventions

made on behalf of the children and the responses to these interventions by the responsible agencies. This use of legal advocacy in the research reveals the intricate workings of the day-to-day operations of these agencies.

#### METHOD

The data for this case study came from a legal advocacy project for children with disabilities who had been removed from the homes of their biological parents because of abuse or neglect. This project was run by a private, nonprofit legal services office, Advocacy Services, Inc.,<sup>1</sup> which represents low-income individuals with mental and developmental disabilities. Advocacy Services is located in the downtown section of a large city on the west coast of the United States.

In 1989, the juvenile court began to appoint Advocacy Services to represent a group of abused and neglected children with special needs. The Advocacy Services staff identified three goals of its representation: (a) provide individual representation to the children; (b) from these individual cases, identify barriers to services; and (c) develop a strategy for change. This study was generated by Advocacy Services as part of its responsibility to represent this population of abused and neglected children.

The study focused on how the various agencies that are mandated to provide services for either abused or neglected children or children with disabilities fulfilled their responsibilities. The primary data were legal interventions—actions taken on behalf of the children by Advocacy Services—that were made with the agencies responsible for the children's basic needs (i.e., education, mental health, living situation). These interventions (e.g., requesting a court order, initiating a special education appeal, contacting a caseworker regarding a child's group home) were made based on the Advocacy Services staff's understanding of their legal responsibility to the children and their assessment of the children's needs, the adequacy with which the responsible agencies were addressing these needs, and the avenues available to affect change in the children's situations.

The first part of the study posed a series of questions related to the legal interventions. What interventions occurred? Why were they necessary? What agencies were involved? What were the particular issues that occasioned the interventions?

The second part of the study focused on *agency dysfunctions*. These were the conditions or circumstances that were observed to prevent or slow down the provision of an entitled or needed service or resulted in the provision of inappropriate services. These agency dysfunctions were identified through

(a) an analysis of a child's case file, which included records collected from the relevant agencies, and (b) review of a detailed chronological history of the child's case, as reported by the staff of Advocacy Services from the inception of its representation.

Some interventions described in this study were simply instances of Advocacy Services trying to obtain services for the children and were not prompted by dysfunctional agency situations. However, other interventions were made to either counter observed agency dysfunctions or to ensure that predictable dysfunctions did not occur. The experience and knowledge of the advocates led them to engage in precautionary action. Their long-standing knowledge of when, where, and how dysfunctions occurred led them to oversee the actions and activities of the various agencies at those points where dysfunctional outcomes were likely to occur.

### *Population Selection*

The cases of 12 children, taken from the total project population of 71 as of the summer of 1993, were eventually selected for study. The goal of the selection process was to identify a sufficient number of cases to ensure representation of interventions with the many agencies having some responsibility for the children as well as sufficient case activity to reveal problems in obtaining services from those agencies. Cases were also selected to reflect diversity among the following categories: number of years represented by the legal office, characteristics of the children (ethnicity, age, gender, type of disability), type of living situation, and service agency involvement. Variation across these categories was sought to determine whether any identified agency dysfunctions were related to the total population of cases studied or specific to certain characteristics of a particular child's case.

Two of the legal office staff, the senior attorney and education specialist, helped in the case selection process. Initially, several cases were proposed with a general description of their characteristics. As more extensive information was compiled from each case, others were identified so that information on the specific categories could be collected. Since this study was conceptualized as an embedded case study (Yin, 1992), a replication, rather than a sampling logic, was employed wherein each case was carefully chosen so that the data from each could be compared with the data of the other cases.

### *Population Characteristics*

Table 1 describes the children whose cases were selected for study. Each child was given a fictitious name. The children's ages at the time each was first

represented by Advocacy Services varied between 9 and 17 years. There were 8 males and 4 females. Eight children were African American, 2 were White, and 2 were Hispanic. The length of time the legal office had been representing the children varied between 5 months and 4 years 3 months.

The disabilities of the children were divided into three categories: developmental, mental, and dual diagnosis. Developmental disability refers to cognitive and/or social delays, such as occurs in mental retardation and other conditions similar to mental retardation or that require services similar to those with mental retardation, such as autism.<sup>2</sup> Mental disability refers to emotional or behavioral problems related to psychiatric disorders or mental illness. Dual diagnosis refers to a combination of developmental and mental disabilities. Two children were considered to have developmental disabilities, 8 were considered to have mental disabilities, and 2 were judged as having a dual diagnosis.

All of the children in the study were in special education. Three of the children had a learning disability as their sole special education eligibility, and 5 were categorized as solely seriously emotionally disturbed. One child was considered learning disabled and seriously emotionally disturbed; another was considered to have a serious emotional disturbance and a traumatic brain injury. Two children were considered to be multiply handicapped with mental retardation as one of their handicapping conditions.<sup>3</sup>

Since representation by Advocacy Services began, 8 children had attended local school district programs and 9 had attended nonpublic (i.e., private) special education school programs funded by the child's school district. Eight children had also attended schools run by the county education agency, either at the emergency shelter or in an area of the county where the local school district does not have programs for children classified as seriously emotionally disturbed. The number of school placements for each child since Advocacy Services representation began varied between 1 and 12.

The types of living situations each child had been in is specified in Table 1. A relative's home indicates a placement either with the child's biological parent or other relative. A foster home is a family home of a licensed foster parent(s) where one or more foster children reside. A group home is a licensed home in the community, staffed around the clock by paid child care workers, where typically six children reside. Residential programs are large, licensed, institutional facilities that typically include on-grounds special education schools and therapeutic services such as individual, group, and family therapy. There is one

**TABLE 1: Characteristics of the Children**

Name	Age <sup>a</sup> (in years)	Gender	Race	Length of Representation by MHAS	Disability	Special Educational Eligibility <sup>b</sup>	School Type(s)	Number of School Placements	Type of Living Situation <sup>c</sup>	Number of Living Situations	Other Agency Involvement <sup>d</sup>	Reason for Dependency Status
Silvia	16	Female	Hispanic	1 year, 8 months	Mental	LD	District	2	Foster	2	DC, W, MH	Neglect
David	9	Male	African American	3 years, 5 months	Mental	SED	District, county, nonpublic	7	Group, shelter, residential	7	DC, W, MH, HO	Neglect
Fatty	16	Female	White	2 years, 7 months	Dual	MR, OHI, MH (OHI + SED + MR)	District, county, nonpublic	2	Group, shelter, residential	3	DC, W, MH, HO, DD	Abuse
Anthony	5	Male	African American	4 years, 3 months	Developmental	LD	District	3	Foster, group	2	DC, W, MH, HO, DD	Neglect
Debra	12	Female	African American	4 years, 3 months	Dual	MH (SED + MR)	Districts, county, nonpublic	5	Foster, group, shelter, residential	5	DC, W, HO, DD	Neglect
John	10	Male	African American	3 years, 5 months	Mental	SED, LD	District, county, nonpublic	6	Group, shelter, residential, relative	5	DC, W, MH, HO	Abuse
Carlos	10	Male	Hispanic	1 year, 8 months	Mental	LD	District	4	Foster, relative	4	DC, W	Neglect
Shaaron	14	Female	African American	1 year, 9 months	Mental	SED	County, nonpublic	4	Shelter, residential	4	DC, W, MH, HO, DS	Abuse
James	10	Male	African American	2 years, 3 months	Mental	SED	County, nonpublic	8	Group, shelter, residential, relative	10	DC, W, MH, HO	Neglect/ abuse
Matthew Robert	14 13	Male Male	White African American	5 months 4 years, 1 month	Mental Developmental	SED	Nonpublic County, nonpublic	1 12	Residential Group, shelter, residential, relative	1 12	DC, W, MH DC, W, DD, DS	Abuse Abuse
Nick	5	Male	African American	2 years, 7 months	Mental	SED	District, county, nonpublic	8	Group, shelter, residential, hospital	8	DC, W, MH	Neglect

NOTE: MHAS = Mental Health Advocacy Services

- a. Age when MHAS began representation.
- b. Special education eligibility: LD = specific learning disability; SED = serious emotional disturbance; MH = multihandicapped; OHI = other health impaired; MR = mental retardation.
- c. Type of living situation: foster = foster home; group = group home; residential = residential program; relative = relative's home; hospital = psychiatric hospital; shelter = emergency shelter.
- d. Other agency involvement: DC = dependency court; W = child welfare agency; MHAS = Mental Health Advocacy Services; DD = developmental disabilities agency; DS = delinquency system; HO = state administrative hearing office.

emergency shelter for abused and neglected children in the county. Although it is designed for short-term placement (i.e., less than 30 days), it has become a quasi-permanent home for many of the hard-to-place children in the county. A hospital placement indicates temporary hospitalization at a public or private psychiatric facility. The number of living situations each child was in varied between 1 and 12.

All of the children in the study were under the jurisdiction of the dependency court, which, along with the delinquency court, constitutes the county juvenile court system. In addition, the county child welfare agency also had responsibility for all of the children. Nine children had been clients of the county mental health agency, and 2 had involvement with the delinquency system—the city police or county probation departments or the delinquency court. Four children were clients of the developmental disabilities agencies, which are private agencies throughout the state that contract with the state department of developmental disabilities to procure services for individuals with developmental disabilities.

In seven of the children's cases, Advocacy Services initiated appeal procedures with a state-level administrative hearing office to secure either eligibility for services or actual services that had been denied by school districts, the county office of education, county mental health, or the developmental disabilities agency. In these appeal procedures, Advocacy Services staff represented the children and presented their cases at a mediation or hearing. Table 1 also identifies the reason, gleaned from court records, that each child became a dependent of the court and provides brief background information for each child.

### **Procedure**

Data were collected through semistructured interviews with the project staff over a 3-month period in the summer of 1993. The interviews focused on the background of the child, including the child's family history and the problems that led the court to consider the child abused or neglected and remove the child from the biological parents. The interviews also covered Advocacy Services' involvement in the case, what advocacy interventions were made on behalf of the child and why, the responses of the agencies to the interventions, and the results of the interventions. If there was a problem related to protecting the rights or obtaining a service for a child, the interviewers explored the cause of the problem and what policy or system changes were recommended to ameliorate it.

Advocacy Services used a team approach in advocating for the rights and services of the children it

represented. There were two attorneys, a senior attorney and a staff attorney, and one education specialist assigned to this project on a regular basis. In addition, law student interns also worked on the cases under the supervision of the regular staff. The two lawyers, the education specialist, and three law student interns were interviewed to learn about the case interventions in which each was involved and the agency responses that resulted.

The benefit of interviewing the Advocacy Services staff for this study was that the lawyers and the education specialist had a comprehensive picture of the children's histories and the broad range of agencies involved in their care. The Advocacy Services staff are experts in the laws that govern the agencies' involvement with the children and understand the services the children should receive and the procedures for receiving these services.

The interviewers kept detailed notes during the course of the interviews. Once the staff of Advocacy Services became comfortable with the interview format, the interview sessions were tape recorded. Case files were frequently referred to during the interview as a way of ensuring the accuracy of the interventions described by the project staff. These case files contained records from the various agencies with which a child had contact from the time Advocacy Services was appointed to represent the child. On occasions, the legal office also obtained records of services that had been provided prior to their appointment as the child's representative. Records in the files typically included those from all of the agencies that had some responsibility for the child.<sup>4</sup>

### **Data Analysis**

Taped recordings and interviewer notes were transcribed, categorized, and summarized. The summaries were reviewed by the education specialist to ensure that each was accurate and included all the interventions taken on behalf of each child and the agency responses to the interventions.

Two sets of the final intervention and response summary sheets were used in the analysis. One set categorized the interventions by the type of issue or issues involved as well as the specific agency or agencies that were the focus of the interventions. To identify types of issues, the researcher examined the reasons Advocacy Services engaged in the interventions and/or the goals of the interventions.

The issues that prompted intervention were grouped into five categories:

1. *Mental health services.* This includes interventions relating to referrals for mental health services, mental health evaluations, outpatient psychother-

TABLE 2: Interventions by Agency and Issue

Issue	Nonpublic										Total		
	Education	Schools/ Other	Mental Health	Developmental Disabilities	Administrative Hearing	Child Welfare	Dependency Court <sup>c</sup>	Residential Facilities	Foster Home	Family <sup>b</sup>		Delinquency System <sup>c</sup>	Other Legal/ Governmental
Mental health services	29		19		9	1	2			3			63
School programs/services	45	16			5	2		1	2	2			71
Living situation	1		1	5	1	23	9	14	1	2		2	59
Problem behavior						1	1	16		1	12	1	32
Other services		2	1	8	1	7	4		1	1		3	28
Total	75	18	21	13	16	34	16	31	4	9	12	6	253

a. The number of interventions specified is not coterminous with the number of court appearances made on behalf of each child. Court appearances are made every 6 months for a child under the dependency court's jurisdiction and every 2 weeks if the child is in the county emergency shelter.

b. The family is listed as an agency on this table because it is one of the placement options for some of the children.

c. The delinquency system includes the delinquency court, the police department, and the probation department.

apy (i.e., individual, group, or family therapy), or day-treatment services (i.e., a day program combining intensive psychotherapy with an educational program).

2. *School programs, placements, and services.* These interventions related to special education eligibility, evaluations, programs, or services other than mental health services.
3. *Living situation.* These interventions occurred in relation to achieving, changing, improving, opposing, or evaluating the residence of the children.
4. *Problem behavior.* These interventions were associated with specific behaviors of the children that required special programming, endangered their services or placements, or brought them in contact with the delinquency system.
5. *Other services.* This includes miscellaneous interventions not covered by the other categories.

Table 2 displays the total number of interventions made for all the children in the study based on the type of issue and agency involved. The summary sheets were further analyzed to identify those interventions that were prompted by or resulted in dysfunctional conditions or circumstances. A response by an agency to an intervention was designated as dysfunctional if, based on the interviews with Advocacy Services staff and/or the review of case records for the study population, it was clear that laws were not followed, mandated services were not forthcoming, services were not appropriate, resources were not available, or there were other agency problems.

The types of agency dysfunctions identified were categorized as follows:

1. *Poor coordination.* This category includes problems that occurred as a result of individuals within a particular agency not working together effectively. Poor coordination between agencies refers to problems that occurred due to a lack of communication between different agencies working on the same case.

2. *Eligibility disputes.* These disputes cover disagreements with agencies over whether a child's disability qualified that child for services.
3. *Inadequate resources and services.* This refers primarily to the lack of appropriate living situations where the children could be placed. Sometimes, it refers to inadequate facilities where a child lived or services within a specific program.
4. *Inappropriate curriculum or program.* This refers to the appropriateness of a particular curriculum or program for a specific child. The program may have adequate resources, but it was not the most appropriate program for the child's needs.
5. *Incompetence.* This refers to problems that occurred because specific individuals within agencies did not perform their jobs adequately because of lack of knowledge or training.
6. *Failure to facilitate.* These dysfunctions occurred when agency personnel agreed to do something on behalf of a child and then failed to follow through on their agreements. Sometimes, this failure was caused by incompetence.
7. *Legal ambiguity.* These problems occurred because of a lack of clarity in the relevant laws governing an issue or because the laws are silent on an issue.

## INTERPRETATION AND DISCUSSION OF INTERVENTIONS

The five types of issues that provoked interventions on the part of Advocacy Services are shown in Table 2: mental health services; school programs, placements, and services; living situation; problem behavior; and other services.

### *Mental Health Services*

Six agencies were targets of interventions related to securing and overseeing mental health services for the children. The most significant of these was the school or school district where mental health services were sought through the special education process.<sup>5</sup> Advocacy Services requested referrals for mental health evaluations for all the children in the study except Debra, whose developmental disability was suf-

ficiently severe to preclude her from benefiting from psychotherapy. Advocacy Services staff attended 17 individualized educational plan (IEP) meetings and made these requests. The remaining interventions with schools or school districts involved contacts to ensure that the referrals were made or to schedule future meetings where mental health evaluation results and recommendations for services could be presented.

The second most frequently contacted agency was county mental health, where referrals for mental health assessments are processed, assessments are conducted, reports are written, and services are recommended. Contacts with county mental health frequently stemmed from a need to track a child through the numerous residence changes that characterized the peripatetic life of most of the children in the study. The lack of a tracking system to coordinate changes in residence with needed services was a problem for many of the children in the study.

Other mental health interventions involved overcoming difficulties in the system of attaining services. In the cases of David, John, James, and Sharon, on eight occasions requests for hearings or mediations were made or the children's cases were presented to the administrative hearing office as a result of the county education agency's refusal to evaluate a particular child's need for mental health services. The dependency court's assistance was sought twice on David's behalf when the county education agency challenged the validity of using the special education process to obtain mental health services for children under the jurisdiction of the dependency court. On one occasion, James's child welfare caseworker had to be contacted about an upcoming IEP meeting at which county mental health was to report on the results of its evaluation of James. Child welfare workers were not typically aware of IEP meetings for the children for whom they were responsible. Three interventions occurred with John's mother, who needed assistance from Advocacy Services to secure mental health services for her son. In this instance, the child welfare agency had placed John in his mother's care with no arrangements for services to help him or his mother live together.

#### *School Programs, Placements, and Services*

Of the 43 interventions with local education agencies shown in Table 2, 22 involved attending IEP meetings regarding such issues as eligibility for special education for Carlos, Matthew, and Nick; an appropriate special education classroom placement for Anthony; enhanced reading services for Silvia and

Carlos; speech and language evaluations for Carlos, James, and Nick; transportation for Silvia; a one-to-one classroom aide for Anthony; school counseling for James; and nonpublic school funding for James and Nick. Ten interventions involved observing classrooms to ascertain their appropriateness for Patty, Anthony, Debra, Carlos, and James. Other interventions included contacts to check on delays in scheduling meetings for Anthony and Debra, providing services for Debra and John, and appointing a surrogate parent for Patty and Nick. Interventions aimed at ensuring appropriate education or services at nonpublic schools involved similar activities as those engaged in with the public schools, such as observing classrooms where John and James attended school, attending IEP meetings for Sharon, and requesting the appointment of a surrogate parent for Sharon.

Contacts with the administrative hearing agency involved participation in mediation/hearing procedures to secure for Patty, Anthony, and Sharon services that had been denied by the school or school district at the IEP level. Family and foster home interventions on behalf of Debra, John, and Carlos dealt primarily with assisting parents with the often-difficult challenge of interacting with the school to secure services, or even actual enrollment, for their children.

#### *Living Situation*

The majority of the interventions involving the children's living situation were made with the child welfare agency. Of the 23 interventions with child welfare indicated in Table 2, 8 involved requesting or opposing a change in residence for Anthony, Carlos, James, Robert, and Nick. Intervention took place primarily when the staff of Advocacy Services deemed a child's living arrangement was highly inappropriate due either to the absence of facilities needed for the child's development or, in some cases, a conspicuous absence of basic caring for the child's needs. Five interventions involved working with the child welfare agency to secure funding for Debra's placement at a group home. Four involved opposing state hospital placement for Patty, Sharon, Robert, and Nick. Two interventions involved conversations with Anthony's caseworker regarding a prospective move by his foster family to another county and the foster family's desire to have Anthony move with them.

Interventions with the developmental disabilities agency dealt with issues such as funding and helping to find appropriate placements for Patty, Debra, and Robert. Advocacy Services also initiated an adminis-

trative hearing against the developmental disabilities agency over the agency's refusal to pay for a portion of the costs of a residential program for Patty.

Of the nine interventions with the dependency court shown in Table 2, two were requests for court orders to prevent child welfare from removing Debra and John from living arrangements until court hearings could be held. Debra's court order was needed because child welfare was going to remove her from an appropriate group home because it did not have a contract with the facility. John's court order was requested to restrain child welfare from placing him in a wholly inappropriate setting simply because the facility had a bed available. According to Advocacy Services staff, child welfare's tendency was to place hard-to-place children in any appropriately licensed facility that would take them, without considering fully the needs of the child or the facility's ability to effectively deal with the child's difficult behavior.

Interventions with personnel at the group homes or residential treatment facilities where David, Sharon, James, Matthew, Robert, and Nick were placed were primarily attempts to assess the ability of these facilities to meet the child's often exceptional needs. One intervention with foster parents involved helping the family plan for a geographical move by initiating action with all relevant agencies so Anthony would be able to move with the family.

#### *Child's Problem Behavior*

A total of 32 interventions with six agencies, as indicated in Table 2, were occasioned by behavior on the part of the children that required special programming, endangered their services or placement, or brought them into contact with the delinquency system. Twenty-eight of these interventions involved either residential facilities or the delinquency system. Discussions with residential program staff were over such behaviors as Debra's and Sharon's physical assaults on staff and other youngsters, John's damaging property, Nick's urinating and defecating in public and biting others, John's and Robert's wandering the streets, James's running away, and Robert's masturbating and having sex with another student. In 12 instances, interventions were made on behalf of 2 children, Sharon and Robert, with the delinquency court, the police, or probation in cases where delin-

quency charges against the children were filed or suspected of being filed. Advocacy Services intervened to provide the agencies with adequate knowledge about the children's disabilities and the legal procedures and decisions required because of their status as foster children.

#### *Other Services*

Twenty-eight interventions were required to deal with matters not covered by the other categories. An intervention was made with a nonpublic agency to obtain a Saturday respite program for Debra, a behaviorally difficult child, so that her group home would not discharge her from placement. Several interventions involved attempts to have child welfare case-workers assigned for Silvia, Carlos, and Sharon so that

services for them would not be delayed further. Other interventions with child welfare involved obtaining a social security card for Silvia, arranging sibling visits for Silvia and Carlos, and retrieving Sharon's personal belongings that had been locked in a former child welfare office for at least a year.

Two interventions involved seeking court orders to obtain sibling visitation privileges for Silvia and Carlos. Other interventions oc-

curring over such issues as locating a summer program for Anthony and a respite program for Robert, discussing the possibility of Anthony's foster mother becoming his legal guardian, facilitating ways of getting James to medical appointments, appealing the developmental disability agency's denial of service eligibility for Debra and Robert, and seeking to streamline procedures for transferring the children's cases from one caseworker to another. One intervention was made with the public defender's office, advocating that Robert not be placed on a conservatorship (that is, considered gravely disabled and, therefore, requiring someone else to make decisions for him). The conservatorship was being recommended so that Robert could be placed in long-term care in the state hospital, a move that Advocacy Services opposed.

This summary of Table 2 reveals the nature of most of the 253 interventions made on behalf of the 12 children. As a result of these interventions, the children received services that they probably would not have received had advocacy interventions not taken place. These interventions also revealed a large number of what we have labeled agency dysfunctions. These are discussed in the next section.

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*The children received services that they probably would not have received had advocacy interventions not taken place.*

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TABLE 3: Dysfunctions by Agency

Dysfunction	Nonpublic										Total	
	Education	School/ Other	Mental Health	Developmental Disabilities	Administrative Hearing	Child Welfare	Dependency Court	Residential Facilities	Foster Home	Family		Other Legal/ Governmental
Poor coordination within agency	1			1		4						6
Poor coordination across agencies <sup>a</sup>	a,b,c,e,f,g, g,j,l,m,n (11)		a,b,c,f,j, k,l,m (8)	b,d (2)		b,d,h,i,k,l, m,n (8)	m (1)		a,c (2)	b,i,l		14 (36) [2] <sup>b</sup>
Eligibility disputes	2			3					n (4)			5
Inadequate resources and services	4	1	1			1		8				15
Inappropriate curriculum/program	7	8						19	1			35
Incompetence	6	1				4						11
Failure to facilitate	11	1	4		1	3		1		2	1	24 [7] <sup>c</sup>
Legal ambiguity	6		3					1				10
Total	48	11	16	6	1	20	2	28	3	6	1	142

a. Each letter corresponds to the agencies that were involved in a specific dysfunction.

b. Two instances of poor coordination across agencies have been attributed to a legal ambiguity and, therefore, have been counted under both categories.

c. Seven instances of failure to facilitate have been attributed to a legal ambiguity and, therefore, have been counted under both categories.

## INTERPRETATION AND DISCUSSION OF DYSFUNCTIONS

Dysfunctions within and across the agencies shown on Table 3 will be discussed primarily in relation to the five agencies with which the majority of interventions occurred: education, nonpublic schools, mental health, child welfare, and residential facilities. This section will conclude with brief remarks regarding dysfunctions with the remaining agencies.

### Education

Forty-eight dysfunctions were observed in relation to actions or lack of actions by personnel at individual schools, school district offices, or county offices of education. Among the areas causing dysfunctions were poor coordination of services between education and other agencies and a failure to facilitate identified services, many of which had been agreed on at IEP meetings.

Coordination problems included delays in getting John in school because the school district where he resided did not have an appropriate program and, therefore, had to refer him to a county office of education program for his schooling. The referral process was not well coordinated and led to a delay in getting John in school. Another instance of poor coordination involved a school district's lengthy evaluation process, which delayed additional services for Carlos, a child with a severe reading delay.

Failure to facilitate requested actions occurred most frequently with the local education agency attached to the emergency shelter. In the cases of David, Patty, John, Sharon, and James, the agency administrators claimed they had no legal responsibility to

make referrals for mental health services as part of the special education program for children living in the emergency shelter.

Another source of dysfunction involving education agencies was the incompetence of personnel, including administrators who did not know how to make referrals for mental health services as part of David's and Carlos's special education program and an administrator who was unclear about eligibility requirements for special education for Nick. There were also occasions when school personnel involved in IEP meetings for Silvia and Anthony seemed unclear about who was legally required to attend, resulting in meetings being held without the required participants in attendance.

Seven dysfunctions involved inappropriate school programs or curricula. Six of these occurred when Silvia, Anthony, Patty, Carlos, and John were placed in special education classrooms with curricula that did not address their needs or functioning levels or where there was an inappropriate peer group.

Four of the observed dysfunctions related to inadequate resources. On one occasion, an IEP meeting for Anthony was significantly delayed because, according to the school district, there were not enough school psychologists in the district to complete evaluations within time lines. On two other occasions, the school attached to the emergency shelter would not authorize needed services by the school psychologist for James or the resource specialist for John because of these professionals' limited time availability at the facility.

Two dysfunctions involved eligibility disputes. In one instance, special education services were denied to Carlos, a fourth-grade child who could not read and

whose test results showed a significant learning disability. In Matthew's case, a school administrator with a very narrow view of the meaning of seriously emotionally disturbed did not initially believe that Matthew qualified for special education services, even though he was placed in a very restrictive residential treatment facility by the child welfare agency because of his emotional and behavioral disturbance.

### *Child Welfare*

Twenty dysfunctional occurrences involving child welfare were identified. Eight of these were coordination problems with other agencies. The child welfare agency typically acted on its own when placing children in the various living situations. Without the involvement of county mental health and education agencies, John, Sharon, James, and Robert were placed in residential programs or group homes without adequate mental health or educational services. When children were placed with family members, as in the cases of John, Carlos, James, and Robert, mental health or school services were not coordinated. This led to James and Robert being out of school for long periods of time, jeopardizing the placements themselves. All four children were without mental health services. In addition, family members were not given any training or support services to help them understand and address their child's needs.

Other dysfunctions arose because of lack of coordination within the child welfare agency itself. Silvia was unable to visit her brother or obtain a social security card because of an extremely long delay in assigning a worker to her case. Sharon needed a report written to keep her out of the juvenile justice system, but she had moved from one part of the county to another, resulting in the transfer of her case to a different office and a different caseworker. A new caseworker had not been assigned, and the former caseworker was not available to write the needed report. A similar situation arose when James's caseworker was transferred to a new assignment and his new caseworker was unaware of, and consequently did not attend, a scheduled interagency meeting to plan for James's future placement.

Several identified dysfunctions involved the failure of caseworkers to remove David, Anthony, James, and Nick from extremely inadequate living situations, where either the physical facilities or the psychological or educational services were detrimental to the child's welfare. Other identified dysfunctions related to the incompetence of specific individuals within the child welfare agency. These included staff who ignored a court order requiring child welfare to notify Advocacy Services before removing John from his

living situation and ongoing problems in working out the payment for a specialized group home for Debra.

### *Mental Health*

Eight of the 16 dysfunctions in which the mental health agency was involved related to problematic participation with other agencies, particularly education. The major problem was the difficulty of obtaining mental health services for children who frequently moved from one school district to another. County mental health frequently required new referrals for mental health services from the new school districts, adding significant time to the referral and evaluation process. On one occasion, Silvia, an adolescent with mental health services on her IEP, moved into an adjacent county and was told that there was a 6-month waiting list for services despite the legal requirement that IEP-mandated services be implemented immediately.

Other problems related to some ambiguity in the law over mental health's role in providing services to children under the jurisdiction of the dependency court. In the cases of Anthony, John, Sharon, and Nick, mental health claimed no responsibility for these children and refused to provide the assessments or services requested by local school districts.

### *Residential Facilities*

Twenty-eight dysfunctional events involved group homes or residential treatment programs. Eight of these involved David, Patty, Debra, John, Sharon, James, Robert, and Nick, where there was either no appropriate permanent placement facilities or the facilities where they lived were not amenable to their welfare. In six instances involving Patty, Sharon, Robert, and Nick, state hospital placement was recommended in the absence of any reasonable community options. Observed characteristics of two inadequate group homes where David and Nick were placed included no toys for the children, a vacant dirt yard for a play area, a closet used as a time-out room, a non-working television, and very little furniture.

Nineteen dysfunctions were related to the difficulty of finding residential facilities with appropriate programs for the children. Group homes and residential treatment programs typically did not have the personnel or the programs to handle the problem behavior of the children in the study, which included physical assaultiveness, sexual acting out, or running away from the facility. In 14 of these instances, the residential facility staff discharged children for behaviors that were known at the time of admittance and, in most cases, behavior that led to the child being placed in the facility. Two instances involved an excessively pu-

nitive group home in which David was placed and another group home that had not taught Nick some very basic eating skills. Another situation involved two residential treatment programs that attempted to make Sharon and Robert delinquents by filing delinquency charges against them for the behaviors for which they were to be treated by the programs.

#### *Nonpublic Schools*

Eleven dysfunctions involved inadequate resources, incompetent personnel, failure to facilitate agreed-on actions, or inappropriate curricula or programs at nonpublic schools. In one instance, Sharon, identified as having a severe language deficit, was unable to receive services from a speech and language specialist because the school did not have one. In another instance, an evaluation of James was of such poor quality that it could not be used. A third instance involved a service that had been agreed on at a mediation for Sharon that was simply not provided.

Eight dysfunctions involving inappropriate curricula or programs were identified. The nonpublic schools attended by Sharon and James employed teachers with no special education training or certification and programs that were not effective with children with serious emotional and behavioral problems. In addition, there were inadequate programs for youngsters with academic potential, such as John and James.

#### *Other Agency Dysfunctions*

One instance of dysfunction involved a request by Advocacy Services for a mediation/hearing to secure a referral for a mental health evaluation and services for James from one of two education agencies. Neither education agency would make this referral, both claiming the other had the responsibility and both requesting dismissal from the case. The administrative hearing agency did not hold the education agencies to required time lines in responding to the requests for dismissal. Eventually, James was moved to another facility and the referral process had to be reinitiated in the new school district.

The dysfunctions that occurred with the developmental disabilities agency were over eligibility disputes and poor coordination. One eligibility dispute occurred when Debra's delays were attributed primarily to an emotional disorder, rather than her being seen as dually diagnosed. Robert was denied eligibility because he was deemed not to be retarded, even though retardation was not a specific eligibility requirement. The developmental disabilities agency operated independent of the other agencies, and coordination efforts were largely unsuccessful.

The dependency court was unable to require the agencies responsible for funding Patty's placement to pay for the specialized placement that all agreed she needed. The court did not have the legal authority to order the agencies to work together and pool their resources.<sup>6</sup> Further, many orders from the dependency court involving the child welfare agency were ignored without repercussion.

#### **CONCLUSION**

This study focused on the interventions made by a legal office, Advocacy Services, on behalf of abused or neglected children with special needs who had been removed from their families by the court. These interventions were made with 12 categories of agencies over five different types of issues. The study also identified those conditions or circumstances, called dysfunctions, that were observed to prevent or slow down the provision of a needed or entitled service or resulted in a child receiving an inappropriate service by one of the agencies. That the study focused largely on the dysfunctions within and between agencies is not meant to imply that the agencies in the study never delivered appropriate services, operated within legal time lines, or functioned in the interest of the child. However, the circumstances under which agency personnel performed their jobs adequately and in accordance with the relevant laws were not the focus of the investigation.

#### *Interventions*

The largest number of interventions occurred with local education agencies. This can partially be attributed to the fact that the laws governing special education are extremely protective and provide clear avenues for not only requesting specific services for a child but also for contesting the denial or the appropriateness of the services received. Having an education specialist on staff helped ensure that education remained a focus of the advocacy efforts.

The relatively small number of interventions with the dependency court partially reflects the lack of available data, related to certain requests for court orders. However, it is also explained by the lack of authority the dependency court has over many of the agencies involved in the children's care. Instead of going through the court, Advocacy Services attorneys had to intervene directly with the various individual agencies.

Most of the interventions with child welfare involved issues related to a child's living situation. Many of the children changed living situations frequently because of their behavior problems, and these changes typically required some intervention with

child welfare. The relative scarcity of interventions over a child's school program/services or mental health services seems to reflect the lack of involvement by child welfare in obtaining these services. Their lack of involvement in this area appears to have several causes: a lack of specific knowledge about obtaining these services, a belief that obtaining these services is not the responsibility of child welfare, and a large caseload that does not allow much time to devote to individual cases.

Consequently, a major function assumed by Advocacy Services for the children in the study was case management, because it was not provided by any other agency. Although there were case managers designated within various agencies (for example, child welfare, developmental disabilities, and sometimes mental health), there was no overall case manager to oversee all of the services a child needed and the agencies responsible for providing them. Except for some legally mandated interagency coordination between the education and mental health agencies, there was no mechanism for coordinating services of the various agencies, nor was there a way to coordinate or blend funding. This was particularly true for Patty, who required very specialized services beyond the typical costs of one agency alone.

### *Dysfunctions*

The highest percentage of dysfunctions to interventions (90%) occurred with residential facilities. All of the children in the study needed individualized services, rather than predesigned service models. The need was particularly great for those who were discharged from numerous group home and residential treatment programs, exhibiting what has been called *foster care drift* (NCJFCJ, 1986) or the *revolving door* of foster care (Janko, 1994).

Therapeutic foster care was not available for adolescents with severe behavioral or emotional problems, such as Sharon and James. The option of placing an extremely difficult child in a foster home or other living situation without other behaviorally or emotionally troubled children did not exist. Most foster parents do not take extremely troubled adolescents into their homes. Furthermore, there is no mechanism for providing additional support services, such as crisis intervention, to these foster homes or funding them at a level high enough to allow specially trained foster parents to care for only one child.

Relatively few interventions were made with a child's family or foster home because only 5 of the children were in these settings at all, and only 2 for any length of time. Nevertheless, the percentage of dysfunctions occurring was high (family, 67%; foster

home, 75%). For James, Robert, and Carlos, who were placed with family members for a period of time, there was no way to access in-home services such as family counseling, respite care, or crisis services that might have helped those living situations work.

A relatively high number of dysfunctions occurred with both the mental health (76%) and education (66%) agencies. These agencies, though legally mandated by state law to coordinate efforts to provide mental health services to special education children who need such services, typically did not work well together.

Problems related to education frequently revolved around the children's many changes in residence. When children moved from school to school or district to district within the same school year, it was virtually impossible for them to receive a consistent education. Typically, there were considerable delays in obtaining educational services, and the children frequently remained without any educational services for long periods of time. Problems sometimes occurred enrolling children in school because special education classes were filled at certain schools, personnel were not available during the summer, districts did not have any special education classes for students who were seriously emotionally disturbed, or determinations needed to be made as to whether a child needed a surrogate parent appointed to consent to assessments or authorize special education services. Clearly, placement decisions regarding a child's living situation must take into account how a placement change will affect the child's education.

At nonpublic schools, particularly those attached to residential treatment programs, the quality of the educational programs was frequently highly questionable. There is a need to tighten state certification and monitoring of these programs. Regular training for teachers and administrators in nonpublic schools should be a requirement of continued certification. Because payment comes from the local school districts, local education agency monitoring of these schools is equally important to ensure quality education.

Finally, school district personnel appeared to have little knowledge of the effects of abuse or neglect on the children's educational performance. Such knowledge is needed to provide appropriate programming for the children in the study or others like them.

### IMPLICATIONS AND RECOMMENDATIONS

One of the issues raised by this study is whether an advocacy organization that provides legal representation for children who have been abused or neglected should function in the role of case manager

for them. Is this an appropriate role for the child's attorney? A benefit of a legal advocacy case management model is that the child's attorney knows how to use the law to secure services or protect the rights of the child. An advocacy case management model, in a sense, demands rights to which the child is legally entitled. When the entitlements are clear, this approach can be very powerful. A skilled advocate who understands the laws governing the various agencies that may have responsibility for serving the child can weave together a program of services using the laws to the child's advantage.

An effective legal advocacy case management model, however, requires more than legal knowledge. It requires that the advocate have some understanding of the effects of abuse or neglect on the child, as well as knowledge of appropriate educational and mental health alternatives, viable placement options, and institutions serving the child. It is an approach that requires more time than is typically available to those who are appointed to represent children who have been abused or neglected.

Another issue requiring some consideration is whether legislation to strengthen and, perhaps, extend the authority of the juvenile court is needed. Extending the jurisdiction of the juvenile court could improve the likelihood of abused or neglected children receiving services to which they are entitled by agencies other than the child welfare agency and the court itself. It is essential, however, that the presiding judge (or other bench officer) have sufficient training to understand the services, laws, and procedures of other agencies, such as education or mental health.

One of the strongest recommendations suggested by the study is the need to individualize services to abused or neglected children, particularly those requiring out-of-home care. Much more creative thought must go into designing service models and there must be the possibility of flexible placement options based on the identified needs of the child.

Clearly, there is a need for more research examining the efficacy of the various agencies responsible for children who have been abused or neglected. This study focused on the cases of 12 children. Further studies are needed to determine whether the results found here are found to exist in other cases and other settings. We need this knowledge to ensure that a vulnerable population of children is being served and our tax dollars are being used effectively.

## NOTES

1. This is not the real name of the legal office, but a fictitious one used for purposes of the study.
2. This definition of developmental disability is taken from the California Welfare and Institutions Code, Section 4512(a) (1996).
3. These eligibility categories are from the Individuals with Disabilities Education Act, and appear in the Code of Federal Regulations, Volume 34, Section 300.7.
4. Missing from the files were some court records that describe orders made by the court at a particular hearing. Consequently, it is likely that the intervention of requesting an order from the dependency court is underreported.
5. This process, whereby county departments of mental health provide mental health services to special education students who need them in order to benefit from their education programs, is authorized in the California Government Code, Section 7570.
6. Because of the problems stemming from Patty's case, Advocacy Services attorneys, working with a state legislator, developed legislation that gave authority to the dependency court to (a) order other agencies into court if they are responsible for providing a service to a child under the court's jurisdiction and (b) order any agency to provide a service to a child under the court's jurisdiction if that agency has the legal responsibility to do so and is not providing the service. This legislation appears in the California Welfare and Institutions Code, Section 362(a) and 727(a).

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