



MiPSAC

Newsletter of the Michigan Professional Society on the Abuse of Children, Inc., the Michigan Chapter of APSAC.

Volume 8, Issue 2

April - June, 2003

PRESIDENT'S CORNER

By Patricia Siegel, PhD, Children's Hospital of Michigan

Happy Summer! I hope this finds all of you enjoying the warmer weather after a long, cold winter. MiPSAC's activities are heating up like the weather. Here are some of the budding blossoms.

Several MiPSAC board members are also members of the Medical Advisory Committee that co-sponsored the Ninth Annual Medical Conference on Child Abuse and Neglect in Novi on May 13th and 14th. The conference was well attended and the new MiPSAC bulletin board, created by Leni Cowling, gave conference participants an opportunity to learn about MiPSAC and hopefully decide to join us. Thanks, Leni! The new director of the Family Independence Agency, Nannette, M. Bowler, was one of the presenters and I was pleased to hear that partnering with other Michigan groups and professionals dedicated to improving the response to child maltreatment is one of her primary goals. Ms. Bowler verbally committed to attend one of the Medical Advisory Committee's future meetings and said she looked forward to working with these physicians toward mutually agreed upon goals. Later in the conference, MiPSAC Past President, Annamaria Church, M.D. volunteered to serve on the FIA Committee charged with developing a new, more user friendly Medical Passport for children placed in Foster Care. It was hard to believe that this committee had no pediatrician or pediatric psychologist consultants to assist them in this very important task. Annamaria will be contacting the committee chair, Mary Chaliman and I will keep you posted on her progress in the next MiPSAC Newsletter.

MiPSAC networking efforts are also beginning to blossom. I recently talked with Susan Heartwell, Director of the Children's Assessment Center in Grand Rapids and the Michigan State Chapter Contact for the Children's Advocacy Center. She will be one of the presenters at the Michigan Statewide Conference on Child Abuse and Neglect in October and has agreed to meet with the MiPSAC Board at our general meeting during the conference. Barb Fischer, Ph.D., President of the Michigan Psychological Association (MPA) and I are still trying to arrange a meeting with Nannette Bowler to see how the leaders of MPA and MiPSAC can provide consultation and expertise to the Family Independence Agency as they formulate new policies to help Michigan children and families. Finally, I was able to persuade Deborah McKelvey, an attorney who serves as a Guardian Ad Litem in child abuse cases in Oakland County, to join MiPSAC. She agreed to write an article for the MiPSAC Newsletter and also plans to attend the August Board meeting. Slowly but surely, important partnerships are forming! *(continued on page 3)*



In this special issue on law and policy, with Guest Editor: Charles Enright, JD MSW

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MiPSAC ANNOUNCEMENTS AND UPCOMING MEETINGS



APSAC 11th Annual National Colloquium

July 23-26, 2003 Orlando, FL.

Tricia-Williams@ouhsc.edu

MiPSAC BOARD MEETING

August 15, 2003 12-3 PM (usually 2nd Friday of even months)

Office of the Children's Ombudsman, Lansing

Contact Harmonm@state.mi.us

7th MiPSAC Annual Meeting

Monday, October 20, 2003, 5-6:30 P.M.

Ypsilanti Marriott / 1275 Huron Street South

Ypsilanti, MI 48197 Info: (734) 487-2000

1. Election of 2004 Officers & Board of Directors
2. Presentation of 2003 MiPSAC Child Advocate Award

22st Annual Michigan Statewide Conference on Abuse and Neglect

October 20-21, 2003, Ypsilanti, MI

University of Michigan (734) 763-0215 sasmi@umich.edu

APSAC First Annual Trauma Treatment Clinic

December 1-5, 2003

Lahaina, Maui, Hawaii Tricia-Williams@ouhsc.edu

APSAC 12th Annual National Colloquium

August 4-7, 2004 Hollywood, FL.

Tricia-Williams@ouhsc.edu

15th ISPCAN International Congress on Child Abuse and Neglect

September 19-22, 2004 Brisbane, Australia

ISPCAN2004@icms.com.au

Michigan Professional Society on the Abuse of Children, Inc. 2003 MiPSAC Board of Directors

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Newsletter Editors: Leni Cowling & Vince Palusci
Guest Editor: Charles Enright, JD MSW

MiPSAC was founded in 1995 and incorporated in 1996 as the Michigan non-profit 501(C)3 state chapter of APSAC.

The comments expressed in this newsletter reflect the views of the author(s) and do not necessarily represent the views of MiPSAC or the American Professional Association on the Abuse of Children. (APSAC).

MiPSAC's Goals

- To bring together professionals working in the area of child maltreatment
- To foster networking
- To be an information resource
- To sponsor quality training

President's Corner *(continued from page 1)*

At the April MiPSAC Board Meeting, Charlie Enright, MSW, facilitated a two hour brainstorming discussion that helped the Board prioritize the 41 tasks developed last year to improve MiPSAC's response to child abuse and neglect in Michigan. Three issues were selected including (1) Coordination of hospital based Child Protection Teams, county based Children's Assessment/Advocacy Centers, Child Abuse and Neglect Councils, and Medical Resource Services professionals, to share information, education, and support, in order to form a network of regional "centers" that will provide services to counties without centers, (2) Fostering competent legal representation for children and educating/communicating with judges regarding child abuse issues, and (3) Creating a functional central database regarding the outcomes for children in the child protection system. At our next Board Meeting on June 13th, the Board will select one of these issues as a primary goal and develop a list of initial action steps to achieve it. This discussion promises to be very interesting and I encourage all MiPSAC members to attend the meeting and participate in this important decision. Thanks Charlie for your guidance!

Three years ago, Howard Fischer, M.D. and I wrote a letter to Michigan Supreme Court Justice, Elizabeth Weaver, the Chair of the Governor's Task Force (GTF) on Justice for Children, describing the difficulties associated with effectively dealing with Munchausen By Proxy (MBP) abuse. Justice Weaver responded and formed a GTF committee to develop a formal document describing a multidisciplinary and collaborative professional response to MBP cases in Michigan. Donald Duquette, Director of the Child Advocacy Law Center at the University of Michigan and GTF member was appointed Chair of this committee and Howard and I were asked to serve as professional advisors. After nine revisions, the document was approved by the GTF in April and is currently in press. In addition, the GTF recently appropriated funds for distribution of the document and professional training. As a result, a new MBP Follow-up Committee has been formed and Anna Maria Church, M.D., Elaine Pomeranz, M.D. and I were invited to participate. The first meeting of the Follow-up Committee is on July 11th. I'll give all of you an update in the September Newsletter.

The year is already half over but I'm very encouraged with our efforts. Progress comes in baby steps but your continued dedication and hard work are making a difference. It is a pleasure to work with all of you.

Join the MiPSAC member email listserv (sponsored by Wayne State University)
by contacting Vince Palusci at
Vincent.Palusci@Spectrum-Health.org
or leave a message for MiPSAC at (616) 391-2297.

REMINDER!

Please renew your annual membership to APSAC.

You must have APSAC membership to be a member of MiPSAC.

Part of you dues to APSAC pays for MiPSAC membership automatically!

American Professional Society on the Abuse of Children

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So did you file a report with CPS?

Guidance for reporting suspected child sexual abuse

By Vincent Palusci, MD MS, Michigan State University / DeVos Children's Hospital

Professionals in Michigan can have difficulty in determining whether to report suspected child sexual abuse (CSA). Unlike other forms of child maltreatment, the definition of child sexual abuse depends on understanding the Child Protection Law AND the Michigan Penal Code. This article attempts to clarify the essential elements that mandated reporters should consider in making the decision to report a case to Child Protective Services.

The Child Protection Law (CPL) requires that mandated reporters should report a case to CPS when they have a "reasonable cause to suspect child abuse or neglect." At a minimum, the CPL specifically lists "pregnancy in a child under 12 years of age" and "the presence of a venereal disease in the child over 1 month but less than 12 years of age" as reasonable cause to suspect abuse has occurred. Child sexual abuse is defined to occur in a child ("less than 18 years old") with "harm or threatened harm to a child's health or welfare by a parent, legal guardian or any other person responsible for the child's health and welfare (which includes an adult over 18 years who "resides in the child's home"), or by a teacher, that occurs through...sexual abuse, (or) sexual exploitation..."

Enter the Penal Code (poor choice of terms?). Unlike other maltreatment, Michigan has given us a code of criminal behavior that does not require that the 'harm' be identified since it is assumed from the sexual conduct. A mandated reporter must know the definition of sexual abuse as defined by sexual contact, sexual penetration or sexual exploitation. In the Penal Code, sexual contact includes "the intentional touching of the victim's or actor's intimate parts" (genitals, groin, inner thigh, buttocks, breast) or "the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose or in a sexual manner for revenge, to inflict humiliation or out of anger." Sexual penetration means "sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required." Sexual Exploitation is defined in the CPL to include "allowing, permitting or encouraging a child to engage in prostitution, or allowing, permitting, encouraging or engaging in the photography, filming or depicting of a child engaging in a listed sexual act." The Penal Code defines 4 levels of Criminal Sexual Conduct (CSC) as well as at least two levels of "assault with intent to commit CSC" with varying criminal penalties. Lastly, there are other potential criminal charges of "endangerment" or "contributing to the delinquency of a minor" which are not listed in the Penal Code.

What is the mandated reporter to do? In addition to the information required to fill out a Child Abuse Reporting Form (FIA Form 3200), the professional should consider the answers to the following critical questions regarding the situation:

1. Is the child under the age of 18y? (or under 18 years when the acts occurred?) Is the child under the age of 16 years? Under the age of 13 years?
2. Is there potential harm or threatened harm to a child's health or welfare? With CSA, we can often assume mental injury despite the common lack of physical findings.
3. Is the parent, legal guardian or other adult 'responsible' through some act or failure to act? (knowledge of the acts, steps to protect the child, other abuse or neglect).
4. Was there sexual contact, sexual penetration or sexual exploitation?
5. How was the concern noted? Was there a disclosure by the child or concerns reported by the guardian?

There are usually questions in individual cases regarding specific harms, injuries, parental knowledge and supervision and sources of information. However, based on the above, one could assume that a report should be made when there are specific concerns reported by an adult or disclosure by the child victim of sexual penetration, contact, or exploitation by a parent or another adult in the household. It becomes less clear in other situations. Note that timing and gender are not specified, and the involvement of children under 13 years of age or with severe physical injury is treated very seriously by the child welfare system.

If you are unsure at this point, I would recommend collecting additional information in order to determine the applicability of the Penal Code in determining if there is reasonable cause to suspect CSC:

6. Was the child mentally incapable, mentally incapacitated or physically helpless (defined in the law)?
7. Did the alleged actor (actor means a person accused of CSC):
 - * Commit another felony at the same time?
 - * Use force or coercion? (threats, weapon, physical force, also defined in the law)
8. Was the alleged actor the same age or within 5 years of age of the child victim?
9. What was the relationship of the child victim to the alleged actor?
 - * Were they legally married?
 - * Was the child emancipated?
 - * Was there a family relationship to the 3rd or 4th degree?
 - * Did they live in the same household?
10. Was the victim under the authority of the alleged actor?
 - * Was the victim a student and the actor a teacher, substitute or administrator?
 - * Was the victim under the jurisdiction of a correctional facility, youth facility or county and the alleged actor is an employee, contractor or otherwise related to that institution?
 - * Was the victim a patient of the alleged actor who is a mental health professional, within two years of treatment?
11. Were others present during the acts?

The answers to these questions can help you assess cases where there is 'voluntary' sexual contact between children of similar ages or with others who are not parents, guardians or in the same household. Whether the child is mentally incapable, incapacitated or helpless and the presence of other crimes, other people, force, coercion, family relationship to the 3rd or 4th degree (?second cousin), or special relationships in facilities, schools or during mental health treatment can suggest the presence of a crime and the need to report.

Can the use of this analysis definitively indicate in every case whether a report should be filed? Obviously not, given the vagaries of individual cases and the limitations of knowledge or information available to the mandated reporter. But most reporters encountering recurring situations in their professional practice need to develop practices as to when to report suspected sexual abuse. An important rule in reporting is that, if it is unclear whether you have a reasonable cause to suspect CSA, you should call CPS. They can review the information with you and help you decide if a report should be made or will be accepted. If they determine a report is not needed, they can also assure that the police are appropriately contacted. The CPL provides protections for reports made to CPS 'in good faith' but these protections are less clear for reports to the police, particularly given new confidentiality rules such as HIPAA. If the report is not accepted and you believe it should be investigated, you can always ask for help from the worker's supervisors or call the Michigan Office of the Children's Ombudsman.

And always note in your professional records when you contact CPS, the name of the worker, and the CPS log number to facilitate follow-up and ensure your own protection should someone ask: "So did you file a report with CPS?"

The DeVormer v. DeVormer Decision and Its Implications for Child Welfare

Frank Vandervort, JD, University of Michigan
Charlie Enright, JD, MSW

We have decided to present this topic as a mock conversation between an attorney and a social worker. Frank will take the role of the attorney and Charlie will take the role of social worker. We promise to try to confine our roles to those assigned.

Before the conversation, let's set out the agreed upon facts as they are set out in the decision. Charlie, at least, would like to know a lot more about the family, the relationships and the current status and resources of each of the family members before making a recommendation in this or any other similar case.

The facts: When Mr. and Mrs. DeVormer were married, Mrs. DeVormer had a daughter from a previous marriage. They then had a child of their own, a boy and the child subject of this decision. Mr. DeVormer was convicted of CSC against his stepdaughter who was under the age of thirteen at the time, and sentenced to 4-15 years. While Mr. DeVormer was in prison Mrs. DeVormer divorced him. The Court left the question of visitation open pending petition by Mr. DeVormer. Upon release from prison Mr. DeVormer petitioned the Court for visitation time with his son. The Circuit Court held that the visitation statute denied Mr. DeVormer visit time unless Mrs. DeVormer and the child agreed to the visits. They stated they did not want visits.

Charlie: So, Frank, how did the Court of Appeals (COA) decide the case and what was their reasoning?

Frank: Well, I should start by noting that this case came about under Michigan's Child Custody Act rather than the Child Protection Law. In the context of this case, this is a very important distinction. In deciding a child custody case, the court must make decisions based upon the best interests of the child as defined in the law. The relevant statutory provisions are:

MCL 722.27a Parenting time.

Sec. 7a.

- (1) **Parenting time shall be granted in accordance with the best interests of the child. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents.** Except as otherwise provided in this section, parenting time shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted parenting time.

... ..

(5) Notwithstanding other provisions of this act, if an individual is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of Act No. 328 of the Public Acts of 1931 and the victim is **the individual's child**, the court shall not grant parenting time with that child or a sibling of that child to that individual, unless both the child's other parent and, if the court considers the child or sibling to be of sufficient age to express his or her desires, the child or sibling consent to the parenting time.(Emphasis added.)

The specific issue the court had to decide in the DeVormer case is whether the highlighted language in section 7a(5) of the statute applied to the factual situation presented in the case. To summarize the statute, when a parent is convicted of criminal sexual conduct for offending against her or his child, that parent may have parenting time with that child or a sibling of that child only if both the child and the non-offending parent consent. In applying the statute to the facts of the case, the court applied a form of legal analysis called strict construction. This form of legal analysis requires the court to look very carefully at the exact language of the statute and apply it to the facts of the case. The court does not try to interpret the law unless there is some ambiguity in the statute's language. In this case the court found no such ambiguity, so child the dilemma becomes immediately apparent. As the highlighted portion of 7a(5) makes clear, the statute only applies if the offending parent is convicted of offending against his or her own child. Thus, the court ruled, because he offended against a stepdaughter, the statute does not, strictly speaking, apply.

Charlie: So, the COA sends the case back to the Circuit Court. In view of the COA decision, what could we expect the Circuit Court to do?

Frank: Yes, the Court of Appeals sent the case back to the trial court for a determination of whether visitation with the son would be in the child's best interests. In making this determination the court must apply the best interest factors. The relevant statute is:

MCL 722.23 "Best interests of the child" defined.

Sec. 3. (Emphasis added) As used in this act, "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:

- (a) The love, affection, and other emotional ties existing between the parties involved and the child.
- (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.
- (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
- (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
- (e) The permanence, as a family unit, of the existing or proposed custodial home or homes.
- (f) The moral fitness of the parties involved.
- (g) The mental and physical health of the parties involved.
- (h) The home, school, and community record of the child.
- (i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.
- (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.
- (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.
 - (l) Any other factor considered by the court to be relevant to a particular child custody dispute.

Under Michigan law, the court must start with the assumption that the child's best interests are served by the child having an ongoing relationship with his or her child. This is a strong presumption, one not easily overcome. However, in applying the best interests factors the court must consider all twelve of the factors, although the judge is free to give some more importance, more weight, than others. It seems clear that a number of the factors will be particularly important in deciding a case such as this. The love, affection and emotional ties will be important because the boy's father has been away at prison for some years and has not apparently had contact for the two years the case has been working its way through the court system. The father's moral fitness will certainly be an important issue, as will his mental health. The child's preference regarding seeing his father will be a very important consideration, too. Clearly, sexual abuse is a form of domestic violence, and the court will want to consider that issue carefully. Finally, under factor (l) the court may consider any other factor the court thinks important, the sexual abuse of the child's sister will be important, as will be any efforts at rehabilitation the father has made. Because there is a strong presumption that non-custodial parents and their children should have regular and significant contact, the trial judge may feel compelled to allow visits between the child and the father. It will be tremendously important that the court have access to expert mental health opinions in assisting it in making the decision whether any visits are in the child's best interests, and, if so, how often the visits should take place and under what circumstances.

So, Charlie, as a social worker what would you want to know about this family that might help you advise the Court on parenting time?

Charlie: There are so many things that would influence any recommendation I would make. First off, how I would differ from the lawyers in a situation like this, is that there aren't bright line rules from my perspective. As a social worker, I would normally say, "It depends." Social workers tend to look at human behavior like parenting time from one of two perspectives. The first is the 'Idiographic' view. The Idiographic model, aims at explanation through the enumeration of the many, perhaps unique, considerations that lie behind a given action. Think of idiosyncratic. As a therapist, this is the way that I would view a family such as this. The second is a 'Nomothetic' view. Rather than seeking to understand a particular person as fully as possible, we try to understand a general phenomenon partially. As a social work, caseworker, I might use accumulated data from studies done on families such as this one.

As an example, we might make a prediction about the likelihood that a father might molest his son. Using a nomothetic view we might look at outcome studies that tell us things like child molesters who molest children of both sexes are more rare than single sex molesters. So the father would be less likely to molest a child who is of a different sex than the child he already molested. Slipping out of my social work role for a second, I would point out that the DeVormer case applies even if the children are the same sex and the biological child is now the same age as the stepchild when the offense occurred!

Outcome studies describe a number of variables that might apply in a given fact situation to increase or decrease the probability that such a father might molest his son. Relevant factors include age of perpetrator at the time of the

offense, marital status, use of violence in molesting, number of prior acts, willingness to attend treatment, gender of victims, relationship of victims to perpetrator. The difficulty of using such studies is that they only give you a probability that the father would molest his son. They can't tell you whether this particular father would molest this particular child.

Using an idiographic view, in order to come to a recommendation, we would interview the family members and others who are knowledgeable about the family and family interactions. I would have a number of lines of questioning I would want to pursue. What sort of relationship does the father have with his son? Is the son afraid of his father? How does the son view the molesting by and conviction of his father? Did the father already molest the son? We cannot assume that because he was only convicted of molesting the daughter that he did not molest his son. Was the father also violent? If so, to whom was he violent? Did the son witness the molesting of his sister? Did he witness any of the stepsister's trauma symptoms? If so, was he affected by it? What position is the mother taking? Is she willing to allow closely monitored visits? Let's face it. This guy molested her daughter. A hostile attitude would be a good thing. My value system is intruding here. As a clinician I need to be aware of that. But, that doesn't mean my values get pushed aside.

Is the father taking responsibility for his actions, by developing a safety plan for visits as part of his relapse prevention plan? Current thinking is that the best treatment for sex offenders is to develop a relapse prevention plan. Also, is the father taking responsibility by paying what child support he is able? If the Court is going to mandate contact, can we develop a system to protect this 'at-risk' child? Can we educate the child to disclose anything (s)he is worried by? Can we teach the mother to listen to her child in a way that will encourage candor on the part of her child? Can we come up with someone he can disclose to reliably if there is concern the mother may not be objective? Can we come up with a reliable system to protect the child? Is the child old enough to understand proper behavior? Can we educate the child to protect himself or herself? Can we get the father to meet with a therapist and discuss means for protecting the son? Is the father willing to give the child permission to disclose abuse in the presence of the therapist? So, any recommendation I would make would be based on the idiosyncratic answers to these lines of questions.

An interesting concern I have would be that Child Protective Services would probably become involved if the mother allowed such a convicted child molester to live in her home, yet the law can mandate parenting time with such an offender. I have direct experience with a case where the two processes were going on simultaneously. The mother was being monitored by FIA to make sure she was protecting the children from her husband (their biological father) who was convicted of molesting in a previous relationship. FIA was threatening to remove them if she allowed contact. At the same time the divorce court was about to require parenting time. The father was concerned about additional charges for molesting their biological children and decided not to exercise his parenting rights as a protection to himself. As the mother's therapist, I was urging her to get FIA involved in the divorce matter. The children's therapist was calling the judge. It seemed that no one would listen to us therapists. When I called the mother's attorney, he put me off. He said the judge was going to order parenting time for the father and that was that.

Also, in the DeVormer case, the Court said the parole agent approved visits. In my experience treating offenders who are on parole, it has universally been a parole condition that the offender is not permitted any contact with children under 16 years of age. That is a parole board decision, not the parole agent's decision. One parolee was forced to move out of the marital home when his wife had their child. For the parolees I worked with it was strictly enforced. So, I might not have a recommendation that the father should or should not be allowed parenting time. I might, but then might not. It depends. I would have recommendations if the father were granted parenting time in order to protect the at-risk child. I would also recommend that the Court be open to reviewing the case on a regular basis if parenting time were granted. How is it working out? Is it helping the child or hurting the child?

Frank, would the Court be willing to entertain a role as a monitor of this situation? If not, is there some other mechanism to monitor the situation to protect the child who visits the convicted molester?

Frank: In deciding whether and under what circumstances the father could see the boy, the court in a case like this has very broad discretion. My first suggestion is that the boy should have a voice in the decision, so I would recommend that the court appoint a lawyer-guardian ad litem to represent the child. A lawyer-guardian ad litem has a duty to investigate the case on the child's behalf, present evidence and make recommendations that will serve the child's best interests. Either way the court decides, its decision will have a very real impact on this child's long-term welfare. If I were the

boy's lawyer-guardian ad litem, I would seek to import a theory from child protection cases to this case, anticipatory neglect. In the child protection realm, Michigan's appellate courts have for thirty years held that a parent's treatment of one child is indicative of his treatment of other children. Thus, if a parent harms a child, even if the injured child is not his own, the court may consider the harm to that child and need not wait until the parent harms another child before taking action to protect that second child. In 1995 the court specifically applied this legal doctrine to a case in which a father harmed a stepchild and then had a baby with that child's mother. The appeals court approved the trial court's action to protect the new baby from potential harm by terminating parental rights. To answer your specific question, yes, the court could appoint a monitor, someone to supervise any contact between the boy and the father. Depending upon the community's resources and the financial wherewithal of the mother and father, this could be an independent professional or this could be a friend or relative. For example, the court could begin by requiring that any contact between the boy and the father take place with a therapist present so that they could begin to rebuild their relationship. The court could structure a parenting time order that moves gradually toward less structured contact, perhaps eventually ending with unsupervised contact.

Charlie: I suppose one way to help out a mother and child in such a situation would be to change the statute. Since the COA has interpreted the statute to only apply if the father has molested his own biological child, the legislature might change the language of that provision to give the mother and child veto power over visits if the father sexually assaulted any child in the household or, for that matter, any child. It seems to me that would bring the language more in line with the child protection law.

Frank: Yes it would. Another possibility in this situation would have been for the mother to bring a petition in the family court to terminate the parental rights of her former husband in their mutual child (as well as her daughter if he had adopted her). Under Michigan's Juvenile Code a parent may seek to terminate the rights of the other parent where that other parent has abused or neglected the child. The fact that the father has been incarcerated does not remove the risk to the child, which the DeVormer case illustrates. The Michigan Court of Appeals has ruled, in a case with facts similar to DeVormer, that the child remains at risk of emotional harm even though the parent who abused the child has been incarcerated. Thus, the family court must hold a termination hearing on such a petition if it is filed. Additionally, as DeVormer illustrates, there may be a real long-term threat that the child will be exposed to an abusive parent if the abusive parent's rights are left intact. One important difference between the Child Custody Act, under which DeVormer was decided, and the Juvenile Code, under which a termination of parental rights case would have been decided, has do with the doctrine of anticipatory maltreatment. Under the Juvenile Code, courts in Michigan have held for more than thirty years that a parent's treatment of one child may be considered in relation to how that parent may treat another child under his or her care. This doctrine has been extended to include stepparents as well as a parent's significant other.

Law and Policy as it affects CPS

By Leni Cowling, M.Ed.

I was told when taking a position with Child Protective Services that I would be functioning as an extension of law enforcement, that child welfare and safety were my responsibility, and that I must investigate referrals of child abuse and neglect to the best of my ability, and that I was accountable to reduce the risk of harm to the child. Thus, while working over a decade in the FIA, I tried to do the very best with my education, experience and empathy, but I realized that this was a job that I could not do alone. I attempted to engage other disciplines in the services to families, such as mental health, public health, housing department, law enforcement, schools, extended family, friends and others. The job nearly killed me and I finally figured out that it was because there is no real definition of abuse or neglect. Everyone has a different perspective on what constitutes risk to a child. When I felt a child was at risk, in going to the prosecutor I had to argue, beg, plead, seek more evidence and sometimes, when that was not enough, give up when seeking resolution to my cases. The very worst cases of neglect and abuse are still unresolved because of the question of "rights". Too often, those "rights" belong to unfit parents and they know how to hide, lie, manipulate, deny and disappear when the investigations get too close. I compare this with our search for Saddam Hussein. We have employed the FBI, CIA and everyone else we can enlist to investigate him, but he knows how to hide! Dysfunctional and unfit families have the same skills! A physical health evaluation is needed from the medical profession. This may need to include x-rays, medical history and evidence of past physical trauma. A psychological evaluation is needed from mental health professionals. Children who have been traumatized have difficulty learning or concentrating in school and often suffer from PTSD with lifelong dysfunction. An educational evaluation is needed from educators. Far too many children

cannot function with basic skills and have no work skills. A family genogram can give important information on the network and dynamics within the family itself. A building evaluation by the local building department may also be needed to assure the safety and security of the home structure. If a case of child abuse and neglect is substantiated and the family refuses to engage in services for the welfare of their child, who makes the assessment that gives the Courts the strength to protect that child?

It is well known that our jails and prisons are filled with individuals who have been abused and neglected in their childhood. Society is concerned with their release back into our communities. However, our correctional facilities cannot provide the services needed to repair the damage. We can also see the increase of mental health issues in the general population and of people who cannot function without anti-depressants, drugs, alcohol or other addictive behavior. The financial burden of "fixing" these issues is no longer imaginable. Medicaid has sunk to its knees.

Consider the mental health needs of the child. When an investigation is done on a family and mental/emotional issues are causing a child to be at risk, there is difficulty in evaluating the degree to which harm is done. It is impossible to get a mental health evaluation by Community Mental Health and they will not provide services to an individual unless that individual wants services. A case under Child Protective Services may warrant needed services that the family is not willing to engage in. When a family refuses to take action to resolve the areas of concern that put their child at risk, the case is frequently closed...until "the next time".

Parents who cannot control their child and have come to the end of their rope have been relinquishing parental rights and turning the child over to the State. They do this because, while Medicaid will pay for the services for a disabled child, it will not pay for more than six or eight sessions in mental health. Some children may need years of mental health therapy. Parents who cannot or will not pay for mental health therapy for their child put up with the child, give up the child, or throw the child out in the street. The problem is not resolved.

When we have a tragedy such as Columbine, we all ask why this could happen. Yet, the signs have been evident for a long time. The schools are asked to deal with these situations and they have a right to ask how they can do this and provide the proper educational skills also. When school staff are concerned about a student and make referrals to CPS, the parents can remove the child from school and homeschool to avoid investigations. There is no requirement for the adequacy of the home school.

We grieve at a child's suicide, and we have Child Death Review Teams to look at the causes for a death. What lengths are we prepared to deal with this. While the standoff at Waco, TX was seen to be initiated by the abuse of the children living there, the lawsuits and arguments still continue to this day.

The physical health of a child is at risk when obesity is a concern, diabetes as well as the use of alcohol and drug abuse. We should also include sexual activity with its inherent risk of AIDS, STD's or unplanned pregnancy. Unfit living conditions also affect a child. The schools complain of the problem of head lice, often seen in the same families for years. Children living in squalid environments pose a health threat to other children in school.

The Public Health Department is supposed to have an educational component that provides information about high-risk health behaviors. I believe it is failing in its responsibility in this regard. We have teen girls going to the emergency departments to seek pregnancy tests when these tests are available elsewhere for less cost to the taxpayer. We have young women who have not sought any medical attention during their pregnancy, and go into the Emergency Department for the birth. High-risk pregnancies could be prevented and must be prevented if any services will be available at all in the future!

We are fully aware that children have learned to love junk food that places them at risk for future hypertension, stroke and heart attack. It is a shame that the schools have chosen the fast food venue for school lunches. It is the easy way, but detrimental to the child.

When families move from County to County or State to State to avoid investigations, the child does not have the home environment stability. Families, who are homeless, living in a car, living in the basement of other dysfunctional families, do not provide an adequate environment for the child. Children living in drug dens or on the streets with their mothers are considered to be in a "family". The system views this concept of a "family" as adequate for a child, but the ultimate cost to the taxpayer is enormous. Many slum landlords are allowed to continue to rent unfit houses because city governments have other interests. When an investigation can provide evidence of physical abuse to a child, by photographs, Physician's reports, videotape and/or witness, there is reluctance by the courts to remove the child because of the unavailability of places to put him/her. Frequently foster care is simply a bed and board, and the suitability of the placement is never assessed. Children are sexually abused, physically abused and neglected in foster care too. Many times a case will be dismissed because the parent will say the black eyes are the result of a single time show of anger. So, the case will be referred again and again for a "history of abuse" to develop. The videotape that was viewed nationally on Madelyn Toogood hitting her little four-year old girl was seen by thousands of people. Unfortunately, the case was dismissed and the child returned to her even though other evidence of parental neglect existed. I feel the

system failed this child. Cases similar to Munchausen's by Proxy have been so confusing and difficult that by the time enough history has been obtained, the child needs inpatient security for a long time. There is no question about the horrendous sexual abuse scandals in the Catholic Church, and other churches like the Jehovah's Witnesses. The hiding, denial, diminution and dismissal of the facts of the scandal by church authorities cannot begin to address the trauma to the victims of such abuse. To offer to pay money to settle the cases misses the point. For some abuse, there is not enough money to pay for its resolution. It is clear that child abuse and neglect be it physical, sexual, mental, emotional, educational or legal is dismissed far too easily and the cost to the child, community and nation is out of control. The multi-disciplinary approach to family health is mandatory now.

With terrorism and health threats like SARS, the safety of our communities must address the needs of our children and take steps to protect them. The image of what that protection is must be defined by the collaboration of the groups. The legal system should be the line in the sand where abuse and neglect is stopped. The cursory investigations that Child Protection social workers are doing will never fit the needs of the child. Many referrals today need a full investigation, just like a murder even if there is no death. In my opinion, law enforcement has more training in criminal investigation. When Doctors disagree on a diagnosis or the lawyers dispute the defendant's rights, a concern for the value of our children and the security in our society must be considered. The bottom line is the cost of this and who pays the fees? Each discipline has the necessary information and skills to provide a full evaluation of abuse and neglect issues. The medical profession can assess and set guidelines for children. The public health department can provide education and information on the safety and health of children. The mental health professionals can provide evaluation on the mental and emotional health of children, and educate parents on its importance in the life of a child. Law enforcement can offer those boundaries that are vital for the safety and security of a child and take clear action in domestic violence, criminal activity and other law infractions for the safety of the child. Our local government can take a strong stand on unfit dwellings and force slum landlords to make them adequate or lose the properties. A lot of tenement housing must be torn down.

What needs to be done?

1. I think, first of all, we must recognize the problems realistically. Fourteen year olds who get pregnant are not mature enough to be an adequate parent. While they have engaged in adult behavior, they are not responsible. They cannot support a child. I would like to see a law that any pregnancy under the age of majority should not have parental rights. Now, if a child-mother cares for her child adequately, there is no difficulty. But, if a referral is made to law enforcement or CPS due to abuse or neglect, the child is removed immediately. While this may sound severe, I think teenagers would begin to realize the significance of bringing a child into the world and the importance of responsibility. This brings into question the grandparents rights. To keep a child "in the family" it is often given to the grandparents. However, I feel it is the parents who are responsible for teaching their children responsibility. When grandparents take over raising their grandchildren, it is basically a boundary violation on the parents. If we are to establish good family boundaries, it is important for everyone to recognize their important role and value to each other, not to usurp this value but to support. Too many teenage girls are getting pregnant for the shock value to society and it is the taxpayer who pays the bills. It is breaking the bank!
2. Professionals must be accountable for their services. Just as teenagers are very peer driven in their behavior, I feel dysfunctional parents are influenced by their peers also. Thus, it is important that the messages they hear from professionals are honest, straightforward and realistic. Unfortunately, many professionals, to be "nice" to clients are also enabling. When this enabling encouragement involves another vulnerable human being, it is malpractice. Mental health is very good at encouraging depressed women to have a child to alleviate their depression. Bad choice! The child is victimized. Children do not need mothers who suffer from severe depression. Lawyers representing parents in court feel they must defend the parents and their behavior. This mocks the rights of the children. I feel that any lawyer who defends a perpetrator who victimizes again should be accountable for lawsuit and victim compensation.
3. Child protective Services should be professionalized. The job requires a great deal of expertise and is not serviced by just having a warm body do it. The forensic information and investigative techniques required are vital to child maltreatment and must not be dismissed out of hand. I realize the cost of this is immense, but so is the cost of caring for children, treating children and managing the costs of keeping society safe. Children who suffer abuse and neglect grow up to cost taxpayers too much.
4. Parents who homeschool their children should first pass the high school equivalency test, have a H.S. diploma or higher education. Even with these qualifications, it is not a sure bet they can prepare their children for the competitive work place. There needs to be on-going educational services for dysfunctional families which may

include anger management, proper hygiene and health practices, emotional health, and values clarification. There are many choices to make in life, and the poor choices are costly.

When we unite in setting values for the safety and security of our children, it will be much easier for families to keep their children and to learn how to provide for them in the way they should. Children grow best in a good family.

LEGISLATIVE UPDATE

Governor Granholm's Executive Order for Fiscal Year 2003 Approved by the Michigan Legislature From The Budget Watch Project of Michigan's Children, submitted by Rosalynn Bliss, MSW CSW

On Wednesday, February 19, 2003 the Michigan Legislature approved an Executive Order issued by Governor Granholm to address a \$158.3 million deficit in the current state budget. The Executive Order included \$84.2 million in program cuts, \$48.1 million in fund shifts and nearly \$30 million in one-time reductions. Total state general fund spending has been reduced \$405 million since October of 2002. The largest departmental reduction was in the Family Independence Agency, which was cut by \$26.9 million. However, \$17.3 million of that reduction was actually a shift of funding from state general funds to federal Temporary Assistance for Needy Families (TANF) funding, rather than a reduction in programs and services. The Michigan Department of Community Health was reduced by almost \$17 million, with cuts in pharmaceutical services accounting for the bulk of the reduction. Throughout the major state departments, administrative cuts were made, in many cases preventing the departments from filling staff vacancies despite major reductions in staff as a result of early retirement options. A summary of cuts affecting children:

Family Independence Agency:

- A 5% reduction in before- and after-school pilot programs.
- A reduction of \$320,000 in the Child Protection: Working Together As Community Partners program.
- A reduction of approximately \$1 million in the Child Safety and Permanency Planning program.
- A reduction of \$1 million in the Families First program that provides intensive, short term services to families with children who are imminent risk of foster care placement.
- A \$122,300 reduction in the Family Group Decision-making prevention program.
- A \$250,000 cut in family reunification services.
- A \$400,000 cut in the Strong Families/Safe Children program.
- A \$50,000 reduction in domestic violence prevention and treatment services.
- 5% reductions in the Fatherhood Program and the Marriage Initiative.
- A cut of \$208,200 in funding for teenage parent counseling.
- Reductions for the Foster Care Adoptive Parent Association, programs for homeless and runaway youths, and the Youth in Transition program

Michigan Department of Community Health:

- A \$625,000 reduction in the Prenatal Care Outreach and Service Delivery Support program.
- A one-third, \$100,000 reduction in the Sudden Infant Death Services program.
- A \$10 million reduction in pharmacy services.
- A 5% cut in a contract to the Michigan Dental Association for dental services for low-income, uninsured children
- A 5% reduction in funding for local health departments for comprehensive family planning services.
- A 5% reduction in funding for transportation for children enrolled in the Children's Special Health Care Services program.
- A 5% reduction in funds for local health departments for the control of sexually transmitted diseases.

Department of Consumer and Industry Services: A \$955,000 reduction in funding for childcare licensing