

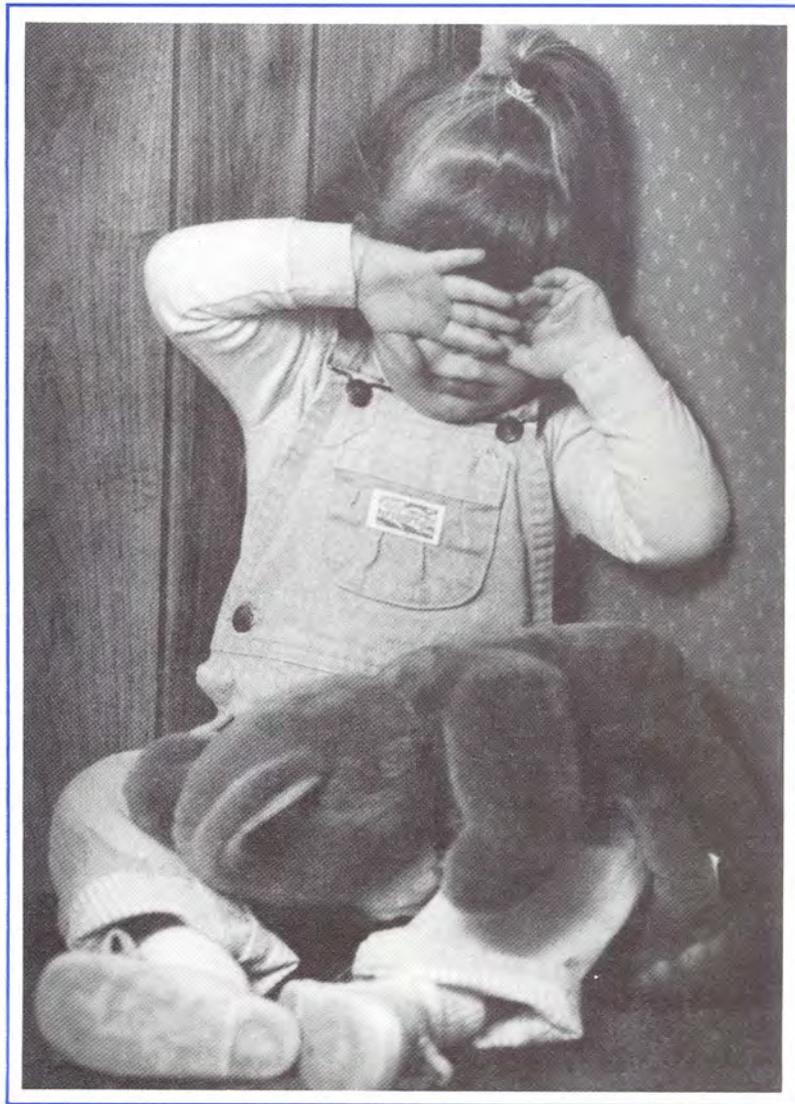
Protecting Oklahoma's Children:



WHO IS RESPONSIBLE?

Each One Of Us Is

**A Report
of the
Oklahoma
Child Abuse
Study
Commission**





DISTRICT COURT OF THE STATE OF OKLAHOMA

14TH JUDICIAL DISTRICT
TULSA COUNTY COURTHOUSE
TULSA, OKLAHOMA 74103
(918) 584-0471
EXT. 2400

DEBORAH C. SHALLCROSS
JUDGE

The Honorable Henry Bellmon
Governor, State of Oklahoma

The Honorable Steve Lewis
Speaker, House of Representatives

The Honorable Robert V. Cullison
President Pro Tempore, Senate

Gentlemen:

The legislation creating the Child Abuse Study Commission mandated that we examine all laws, policies, and procedures relevant to child abuse and neglect. *Protecting Oklahoma's Children: Who Is Responsible?* is the result of six months' work by citizens of Oklahoma who are committed to securing a safe and productive future for our children.

Our children are our most precious resource for the future. The effort to develop industry and encourage investment in Oklahoma is one element to assure our prosperity in the twenty-first century. Our children, however, will perform the factory jobs we hope to create, repair aircraft, program computers, heal the sick and teach the next generation. They are Oklahoma's most important resource, and we all have an interest in protecting this asset. Unfortunately, as documented in our report, this most valuable resource is often being inadequately nurtured and prevented from reaching full potential.

Thousands of Oklahoma's children are deliberately, battered, maimed, burned, and bruised each year. Children who are emotionally, physically, and/or sexually abused must struggle to become productive citizens and loving parents of the next generation. We know that the vast majority of persons incarcerated for violent crimes were abused as children. We know there is a correlation between teen pregnancy and family violence, drug and alcohol addiction and family violence, juvenile delinquency and family violence. Children that are abused are more likely to become a burden to Oklahoma than an asset.

None of the components of Oklahoma's child protection system is functioning adequately – including the most important component, the family – to protect or to provide services when a child is injured. Recognition of the magnitude of the problem and recognition of the failure of the current system to ensure children are safe in their families are initial steps to correcting the problem. We believe that implementation of our recommendations will improve the system which protects our children from abuse and neglect. We have outlined areas for further study which complete the task.

With your leadership, we can begin to address the areas of concern identified in our report. Child abuse and neglect, however, is not a problem that government alone can or should resolve. Churches, extended families, professionals, and all citizens have a responsibility and a vested interest in preventing its occurrence. Thank you for your commitment to our children.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Deborah C. Shallcross".

Deborah C. Shallcross, Chair
Child Abuse Study Commission

OKLAHOMA CHILD ABUSE STUDY COMMISSION

Membership 1988 – 89

CHAIR

Deborah C. Shallcross
Judge of the District Court, 14th Judicial District

MEMBERS

Nancy Anthony, Director
Oklahoma City Community Foundation, Oklahoma City

Robert Block, M.D., Professor and Vice Chair, Pediatrics
University of Oklahoma College of Medicine – Tulsa

Ben Brown
State Senator, Oklahoma City

Edna Brown, A.C.S.W., L.S.W.
Edwin Fair Community Mental Health Center, Ponca City

Bernest Cain
State Senator, Oklahoma City

Eva Carter, Director
Oklahoma Institute for Child Advocacy, Oklahoma City

Craig Corgan,
District Attorney, Washington County, Bartlesville

Kay Dudley
State Senator, Oklahoma City

Caroline Emerson,
Designee of Attorney General Robert Henry,
Oklahoma City

Sandra Farmer, Assistant Superintendent
Coweta Public Schools, Coweta

John Foley, Assistant District Attorney,
Designee of Robert Macy, District Attorney,
Oklahoma County, Oklahoma

Robert Fulton, Social Services Cabinet Secretary
Office of the Governor, Oklahoma City

Evelyn Hibbs, Executive Director
Women In Safe Homes (W.I.S.H.), Muskogee

Maxine Horner
State Senator, Oklahoma City

Reverend Moses Howard, Pastor
Marshall Memorial Baptist Church, Oklahoma City

Lynn Jones, Lieutenant
Tulsa Police Department, Tulsa

Fred B. Jordan, M.D., Chief Medical Examiner
State of Oklahoma, Oklahoma City

Linda Larason
State Representative, Oklahoma City

Phillip Lujan, Chief Justice
Court of Offenses for Western Oklahoma, Norman

Cynthia Meyerson, Chair
Oklahoma Permanency Planning Task Force,
Oklahoma City

Billy A. Mickle
State Senator, Durant

Jo Montana, Mayor
City of Vinita

Susan Morris, Director
Youth and Family Resource Center, Shawnee

Deborah Rothe, Programs Coordinator
Department of Human Services, Oklahoma City

Joe Sam Vassar, Chief Staff Counsel
National American Insurance Company, Chandler

Charles Waters, General Counsel
Department of Human Services, Oklahoma City

CREDITS

Staff assistance at Commission and Task Group meetings and in preparation of this report was provided by:

Sue W. Clark, Executive Secretary
Oklahoma Commission on Children and Youth,
Oklahoma City

John F. Gajda
Management and Service Development Consultant
Tulsa

Thomas S. Kemper, Director
Oklahoma Commission on Children and Youth,
Oklahoma City

Jonas Mata, Program and Administrative Consultant
Department of Human Services, Oklahoma City

Linda Passmark, Director
Office of Child Abuse Prevention, Department of Health,
Oklahoma City

Janice Sharp, Secretary
Oklahoma Commission on Children and Youth,
Oklahoma City

Trisha Williams, Special Projects Consultant
Oklahoma Commission on Children and Youth, Tulsa

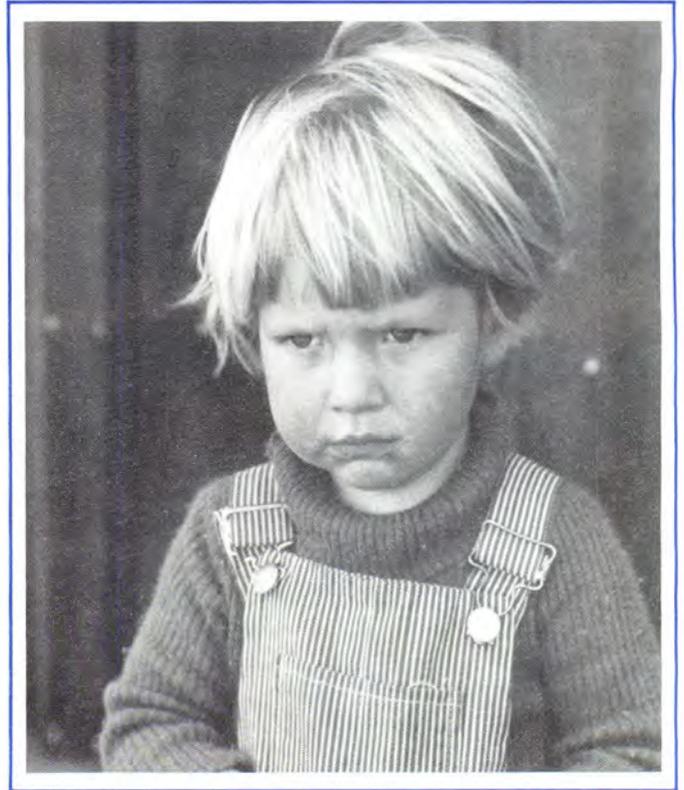
TABLE OF CONTENTS

Study Commission Members	i
Table of Contents	iii
Preface	1
EXECUTIVE SUMMARY	2
Summary of Issues and Conclusions	2
Blueprint for Action: Shared Responsibility	6
INTRODUCTION	15
PRIMARY COMPONENTS OF THE CHILD PROTECTION SYSTEM	17
HISTORY AND STRUCTURE OF THE CASC	21
THE FOUNDATION: PRINCIPLES FOR THE CHILD PROTECTION SYSTEM	23
CHILD ABUSE STUDY COMMISSION TASK GROUP REPORTS	25
Report Organization	25
Definition of Child Welfare	25
THE DEPARTMENT OF HUMAN SERVICE TASK GROUP	27
I. Insufficient Number of DHS Child Welfare Staff	27
II. Training for Child Welfare Staff	29
III. DHS Child Welfare Policy	31
IV. Child Welfare's Public Image and Priority Within DHS	33
V. Accountability within DHS	35
LAW ENFORCEMENT, LEGAL, JUDICIAL TASK GROUP	37
VI. Multidisciplinary Team Approach to Case Management	37
VII. Multidisciplinary Training on Child Abuse and Neglect	39
VIII. Law Enforcement Officer's Training	40
IX. District Attorneys' Training in Child Abuse/Neglect and Domestic Violence	41
X. Training of Judges	42
XI. The Adversary Process and the Child Victim	43
XII. Children as Witnesses	44
XIII. Child Advocacy and Legal Representation	46
XIV. Rape, Molestation, and Sodomy Definitions and Sanctions	47
XV. Treatment Involving Extended Family Members	48
XVI. Professional Liability	49
COMMUNITY SERVICES TASK GROUP	51
XVII. Inadequate Knowledge of Laws Governing Reports of Suspected Abuse	51
XVIII. Inappropriate Application of Confidentiality	52
XIX. Interagency Coordination of Services	53
XX. Community Based Service Needs	54
XXI. Relationship Between Domestic Violence and Child Abuse and Neglect	55
XXII. Problems in Recruitment and Retention of Foster Homes	56
SYSTEM FAILURE: RECURRING ABUSE AND CHILD DEATHS	59
XXIII. Recurring Abuse Leading to Child Deaths	59
XXIV. Investigations of Child Deaths Caused by Abuse	61
XXV. Monitoring the Quality of Service Delivery	62
XXVI. Protection of Children in the Legal System	63
XXVII. Diagnosis, Reporting, and Testimony by Medical Professionals	64
ISSUES FOR FURTHER STUDY	67
APPENDIX	69
A. Commission Study Activities	71
B. Interagency Survey Results	72
C. Glossary of Terms	73
D. Authorizing Statute	76
E. Footnotes	77
F. Bibliography	78

CHILDREN

by Ina J. Hughes

We are responsible for children
who put chocolate fingers
everywhere,
who like to be tickled,
who stomp in puddles and ruin their
new pants,
who sneak Popsicles before supper,
who erase holes in math workbooks,
who never find their shoes.
And we are responsible for those
who stare at photographs from
behind barbed wire,
who can't bound down the street in a
new pair of sneakers,
who never "counted potatoes",
who are born in places we wouldn't
be caught dead,
who never go to the circus,
who live in a x-rated world.
We are responsible for children
who bring us sticky kisses and fistfuls
of dandelions,
who sleep with the dog and bury
goldfish,
who hug in a hurry and forget their
lunch money,
who cover themselves with Band-aids
and sing off key,
who squeeze toothpaste all over the
sink,
who slurp their soup.
And we are responsible for those
who never get dessert,
who have no safe blanket to drag
behind them,
who watch their parents watch them
die,
who can't find any bread to steal,
who don't have any rooms to clean
up,
whose pictures aren't on anybody's
dresser,
whose monsters are real.
We are responsible for children
who spend all their allowance before
Tuesday,
who throw tantrums in the grocery
store
and pick at their food,
who like ghost stories,
who shove dirty clothes under the
bed, and never rinse out the tub,
who get visits from the tooth fairy,



who don't like to be kissed in front of
the carpool,
who squirm in church and scream in the phone,
whose tears we sometimes laugh at
and whose smiles can make us cry.
And we are responsible for those
whose nightmares come in the
daytime,
who will eat anything,
who have never seen a dentist,
who aren't spoiled by anybody,
who go to bed hungry and cry
themselves to sleep,
who live and move, but have no being.
We are responsible for children who
want to be carried and for those who
must,
For those we never give up on and for
those who don't get a second chance.
For those we smother. . .and for those
who will grab the hand of anybody
kind enough to offer it.

PREFACE

Parents are the most important people in a child's life. Nurturing and caring for the child is the most important responsibility of parents. There is no greater failure in our society than the disintegration of a family. As individuals, communities, churches, and governments we all share the burden of this failure. To ensure its own future society must value its children, and as a responsible society we must be committed to protecting children who cannot protect themselves.

No decision made by government officials is as serious as a decision which deprives a family of its children. However, the number of confirmed cases of child abuse, child neglect, and child sexual abuse in Oklahoma have risen dramatically since 1981. Thousands of children are suffering immense physical and emotional pain, and too many have died. The Study Commission calls for a comprehensive effort by professionals, neighbors, churches, and government to protect children and to meet the needs of families.

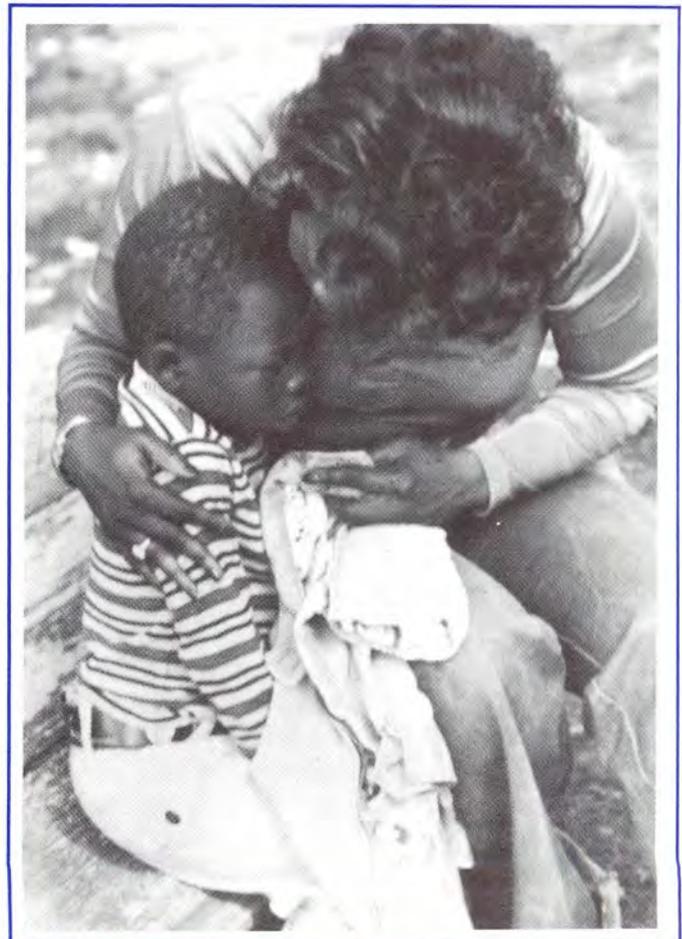
An effective program for victims of child abuse, child neglect, and child sexual abuse requires services which emphasize the safety of children and the treatment or restriction of the offender. The professionals in public and private agencies providing these services and charged with protecting children must be adequately trained, competent, and given the resources to do their jobs.

An effective program for children and families requires advocacy and oversight by members of the community. The Child Abuse Study Commission is concerned about the safety of Oklahoma's children and about the availability of resources which protect our children. **Oklahoma's child protection system is failing.**

The Study Commission believes our recommendations can, upon implementation, improve the system to provide greater protection for the children of Oklahoma and more services to strengthen their families. Our task will not be complete, however, until each child is safe and secure in a nurturing family that is free from abuse and neglect.

"..... the law must make the child's needs paramount. Each time the cycle of grossly inadequate parent-child relationships is broken, society stands to gain a person capable of becoming an adequate parent for children of the future."

Beyond the Best Interests of the Child, Goldstein, Freud, Solnit, 1973.



EXECUTIVE SUMMARY

The Oklahoma Child Abuse Study Commission was created by legislation proposed in 1988 by Governor Henry Bellmon in response to his concern that over 50 Oklahoma children died from abuse and neglect in a recent period of less than two years. (See Appendix D for text of statute.) The Commission is comprised of 27 professionals, citizens, legislators, and agency officials who were appointed by the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

The Commission organized into four task groups to study the major components of Oklahoma's child protection system. After identifying the important issues, determinations of findings were made based upon months of discussion and research. Recommendations to strengthen the child protection system were generated, and specific action steps to implement recommendations were developed.

Each issue identified by the Task Group is assigned a Roman numeral (I through XXVII). The *Summary of Issues and Conclusions* includes each issue identified by a Task Group and a summary of the conclusions developed for the issue. The *Blueprint for Action: A Shared Responsibility* summarizes the action steps which will implement the Study Commission's recommendations. Following each action step is a citation to an issue, an action step, and a page which refers the reader to the full text of the appropriate Task Group report (for example, XII.A.3. at page 9 represents issue XII, action step 3, at page 57). In each Task Group report the letter F represents a Finding and the letter R represents a Recommendation of the Task Group and Study Commission.

SUMMARY OF ISSUES AND CONCLUSIONS

ISSUE I: Insufficient Number of DHS Child Welfare Staff

DHS does not have a sufficient number of personnel, both direct service and supervisory workers, to deliver and oversee statutorily mandated child welfare services. Lack of workers has resulted in high turnover, frequent burnout, low morale, and questionable decision-making, all of which have reduced the overall quality of services provided and have placed Oklahoma's children in danger.

ISSUE II: Training for Child Welfare Staff

In the past five years, the Child Welfare Unit has not had a formal training program for new workers, con-

tinuing education for experienced workers, or management training for supervisors. Absent a specialized training curriculum, the basic training for DHS child welfare workers falls on the front line supervisors. Unfortunately, the supervisors often have not had recent access to training and are too busy with caseloads to spend much time teaching. DHS desperately needs a basic skills training program for state office and field child welfare staff. Child welfare workers also need multidisciplinary training to build working relationships with medical and legal professionals that will benefit the child.

ISSUE III: D.H.S. Child Welfare Policy

DHS does not have clear guide lines on how child welfare policy should be developed, written, and distributed; nor are procedures clear about when policy becomes effective, time tables for policy training, and staff accountability for knowing and adhering to policy. The absence of guide lines has produced wide and varying interpretations and practices by staff in the delivery of statutorily mandated child welfare services.

ISSUE IV: Child Welfare's Public Image and Priority Within D.H.S.

Child Welfare Services, and consequently the abused and neglected children who receive services, have been overshadowed by more visible and vocal DHS program interests. Both inside and outside the DHS, Child Welfare Services is seen as weak, without direction, and politically unpopular. For Child Welfare to succeed at becoming a priority within DHS and in the community, Child Welfare Services must assert themselves, develop and publicize their short and long range plans, document their successes, and become more visible.



This young boy was beaten by his father about the head and face with a leather belt.

ISSUE V: Accountability Within D.H.S.

DHS programs for children and youth operate without checks and balances, quality control, and accountability of programs and employees. These inadequacies adversely affect DHS's delivery of services to children and families and was an issue repeatedly heard in the various public forums held by the Commission. There appear to be ineffective sanctions for DHS staff who fail to follow policy and no accountability up the chain of command for unsatisfactory performance, misconduct, unauthorized disclosure of confidential information, insubordination, or neglect of duty. Although the current DHS policy for disciplinary action is effective when applied, DHS supervisors and managers do not use the procedure for corrective discipline as often as warranted.

ISSUE VI: Multidisciplinary Team Approach to Case Management

A lack of coordination among the various disciplines responsible for the investigation and prosecution of deprived and criminal child abuse cases has contributed to frustration and territoriality among the various disciplines. This has resulted in further victimization of the child by poor case management, untimely intervention, and piece-meal case planning and oversight. A multidisciplinary review team, organized by the district attorney in each jurisdiction, could provide the coordination and collaboration between professionals needed to monitor and ensure the appropriate handling by DHS and the courts of deprived and criminal child abuse cases.

ISSUE VII: Multidisciplinary Training on Child Abuse and Neglect

There exists no cross-agency training in Oklahoma for professionals who are involved in investigating, prosecuting, or treating child abuse, child neglect, sexual abuse, and domestic violence. A multidisciplinary approach to training would provide opportunities for professionals to learn from each other about their role and responsibilities to children and families, to learn how to more effectively coordinate their services to abused and neglected children, and to develop new ideas and innovative approaches to solving system problems.

ISSUE VIII: Law Enforcement Officers Training in Child Abuse/Neglect and Domestic Violence

Existing state law does not include a specific training requirement for law enforcement officers on child abuse/neglect or family violence issues. The current CLEET training curriculum and education requirements for law enforcement officers needs to be expanded to include specialized training in child abuse, child neglect, and the dynamics of family violence so that officers can more effectively investigate and intervene in child abuse cases.

ISSUE IX: District Attorney's Training in Child Abuse/Neglect and Domestic Violence

Existing state statutes do not mandate any specific training requirements for district attorneys on child abuse and domestic violence. All district attorneys, as dictated by the Oklahoma Supreme Court, are required to participate in 12 hours of annual training and only one course requirement is specified (one hour of ethics). Specialized training in the area of child abuse will prepare district attorneys to do a better job in the prosecution of child abuse cases.

ISSUE X: Training of Judges

A majority of judges have not received training and education in the theory of the dynamics of the abusive family, child abuse and neglect, and sexual abuse. Without an understanding of these issues, judges are unable to evaluate testimony of children and expert witnesses and draw correct conclusions from that testimony, nor are they able to exercise discretion appropriately to protect child victims. Without this knowledge, judges are unable to make the best possible decisions about a treatment plan or disposition plan which will enable the family to be reunified and protect the child from recurring abuse.

"Research has convincingly demonstrated that using the "rod" creates children who are not more obedient but who are instead simply more angry and aggressive than other kids. Parents who routinely slap or strike their children are actually handing them a model of violence to imitate—and many do indeed grow to be abusive, some even murderously so."

Julius Segal, Ph.D. Psychologist

ISSUE XI: The Adversary Process and the Child Victim

The adversary process functions to protect the child victim only when the trier of fact receives accurate, complete information from all interested parties with legal standing. Protection of the child victim requires well-trained law enforcement and DHS personnel; appointment of competent, independent counsel at each stage of the process for the child; and well-trained, competent judges with the knowledge to appropriately evaluate information from the components of the child protection system, the parents, the child, and his or her attorney.

ISSUE XII: Children As Witnesses

The judicial process does not treat abused children with care or sensitivity and often adds trauma to

the child's life. Children who are victims of physical and sexual abuse are often forced to testify several times during the judicial process. Current law prohibits the child's parent or caretaker from being present in the courtroom during the child's testimony (Rule of Sequestration), yet the child must testify with the perpetrator present. (The use of video tape can only be applied to children under the age of 12 who have been sexually abused.) Although judicial hearings (juvenile or criminal) involving children are often continued for valid reasons, rarely are the continuances in the best interest of the child.

ISSUE XIII: Child Advocacy and Legal Representation

Advocacy for abused and neglected children is all but absent in the court process. Existing statutes are inconsistent in the standards applied to admissible evidence and attorney representation in child physical abuse versus child sexual abuse. Statutes do not prohibit any one from intimidating a State's witness in a deprived case. Appeal procedures involving children are often lengthy, leaving the child's living arrangements unresolved for long periods of time. The legal system must find ways to treat child victims with regard to their developmental needs and compassion for their trauma.

ISSUE XIV: Rape, Molestation and Sodomy: Definitions and Sanctions

Sentences for child beating and rape by instrumentation are too lenient when compared to the emotional, psychological, and physical damage inflicted on

the child. The current statutes on molestation, rape, and sodomy need revision so that all aspects of sexual crimes against children are addressed. Victims who have been forcibly sexually violated know the emotional devastation and long term effects. For children the trauma is much greater. *Any* type of sexual exploitation of children betrays trust, causes physical injury, damages ego development and self concept, and robs the child of his/her childhood.

ISSUE XV: Treatment Involving Extended Family Members

There exists no jurisdiction for the juvenile court to order stepparents or "live-ins" to attend counseling, parenting classes, or any treatment option that is necessary to constructively reunify a family who has been adjudicated deprived. Changes in societal norms have dramatically increased the number of children who live with a stepparent or other "live in" at some point during their childhood. These extended family members are responsible for an increasing number of abuse cases, and courts must have authority to dictate their treatment in order to protect the child victim.

ISSUE XVI: Professional Liability

Police officers and child welfare workers currently may be sued as individuals for alleged misconducts in dealing with abused and/or deprived children (21 O.S. 843, et. seq. and 10 O.S. 1101, et. seq., Governmental Tort Claims Act 51 O.S. § 151 et seq.). Personal liability laws discourage intervention by leaving the professional open to suit.



ISSUE XVII: Inadequate Knowledge of Laws Governing Reports of Suspected Abuse

Any person in Oklahoma having reason to believe that a child under 18 has been abused is mandated by law to report the suspected abuse. Despite efforts by state agencies to educate the public, including professionals coming into contact with suspected abuse or neglect, the public continues to be misinformed and confused about their responsibility and immunity in reporting suspected abuse and neglect. Large segments of the public continue to think that not all abuse needs to be reported and that failure to do so is not unlawful.

ISSUE XVIII: The Appropriate Application of Confidentiality

Child welfare caseworkers and other professionals with knowledge of a child abuse case are sometimes lax about maintaining confidentiality of reporters or complaints. At the same time, professionals involved in implementing a treatment or service plan are often denied access to necessary information on the basis of maintaining confidentiality. The parameters of confidentiality in child abuse and neglect cases need clarification, and professionals working in child abuse and neglect need training on the appropriate application of confidentiality of case information.

ISSUE XIX: Interagency Coordination of Services

There exists a lack of coordination among DHS caseworkers, legal and judicial personnel, medical personnel, schools, community service providers, and other state agencies. The current quality of case plans for abused and neglected children can be vastly improved by a protocol that ensures thorough information sharing and proper reporting across agencies and between professionals that are called upon to intervene in a particular case. This should result in a cost saving that can be used to provide more quality services for children.

"When those who are not injured are as indignant as those who are, then shall justice come to America."

Robert Geiser, *The Illusion of Caring*

XX: Community-based Service Needs

DHS does not have a sufficient number of community-based programs to serve deprived children and their families. Oklahoma must expand services to families in their own communities to reduce the number of children and families that will later require costly treatment services.

ISSUE XXI: Relationship between Domestic Violence and Child Abuse and Neglect

Although approximately 65% of abused children come from homes with concurrent spouse abuse, little attention is given to the dynamics of domestic violence by child welfare workers, attorneys, and judges. Greater service coordination and training is needed between child welfare and domestic violence programs in such areas as risk assessment, crisis intervention, parenting education, and on-going support programs for families at risk of recurring abuse.

ISSUE XXII: Problems in Recruitment and Retention of Foster Homes

Maintaining a sufficient number of quality foster homes to serve abused and neglected children across the entire state is extremely difficult. For every home that is used, at least two other homes must be available to allow for attrition. DHS is experiencing problems in recruiting sufficient foster homes in different parts of the state. The state foster care system should receive priority consideration and support by DHS, especially with regard to recruitment and length of retention of foster homes.

ISSUE XXIV: Investigations of Child Deaths Caused By Abuse

Not all child deaths caused by abuse and neglect are identified and properly investigated. A case review of each child death in Oklahoma resulting from non-natural causes is needed to allow more accurate tabulation and identification of deaths to children caused by child abuse or neglect; better protection of siblings still living in dangerous situations; and identification of inadequate policy and procedure within each component of the child protection system. An adequate review must include review by professionals from the medical, legal, and social service community.

ISSUE XXV: Monitoring the Quality of Service Delivery

Existing supervision and accountability of the child welfare system is not sufficient to protect children at risk of being abused or who have been abused. Children and parents in crisis are being further victimized by arbitrary or incompetent actions of case workers, or are becoming lost without proper follow-up within the system. Although no system of this size is expected to function completely without error, the combination of child welfare's shortcoming in such areas as training, accountability, and sufficient personnel, along with the lack of coordination among agencies and professionals has increased the number of cases being mismanaged and has contributed to further victimization of the child.

ISSUE XXVI: Protection of Children in the Legal System

The primary goal of a legal proceeding involving a family with children must be protection of the children without undue intrusion into the rights of the parents. Most attorneys representing abused and neglected children have little training in the dynamics of child abuse or devote very little time to competently advocate for and represent the child. Without an understanding of the theory and research of the abusive family and an understanding of child abuse and neglect, judges are not able to correctly evaluate testimony of the child or to draw appropriate conclusions from the information.

ISSUE XXVII: Diagnosis, Reporting and Testimony by Medical Professionals

Only 3 to 6 percent of reports of suspected child abuse are made in Oklahoma by physicians. Nationally an average of thirteen percent of all reported cases of abuse are made by physicians. Physicians and nurses in Oklahoma should be working as advocates to protect children from unnecessary harm. Physician training in diagnosis and treatment must be expanded and more physician abuse experts must be available for consultation to rural counties. Although physician concerns regarding immunity, financial remuneration for services, and lengthy court commitments are reasonable, physicians and nurses cannot allow these concerns to override their legal obligation to report suspected abuse, or their obligation as healers to intervene if a child's life and safety is in jeopardy.

BLUEPRINT FOR ACTION: SHARED RESPONSIBILITY

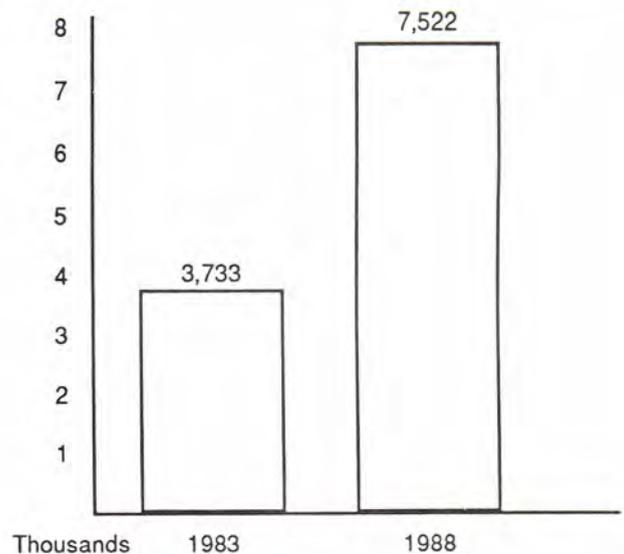
The Study Commission believes that child abuse, child neglect, and child sexual abuse are a community problem that require a community response. The child protection system is not one agency or one service delivery system. Each Oklahoman is responsible for protecting Oklahoma's children from abuse and neglect. To meet this challenge we must all share the responsibility for implementing the Study Commission's recommendations. The Blueprint for Action identifies the department, agency, or organization which has the primary responsibility for implementation of specific recommendations.

The Department of Human Services should:

1. allocate sufficient funds to implement a specialized, competency-based training program for child welfare staff by October 1, 1989. The program should include core training curricula for local workers,

basic and advanced specialty curricula for all levels of child welfare staff, and a core management curricula for supervisors and district supervisors in child welfare. (II.A.1. and 3., page 31)

2. train local child welfare workers and front-line supervisors under the specialized training program by June 30, 1990. (II.A.4., page 31)
3. revise Child Welfare Services' training policy and procedure by January 1, 1990, to specify who is responsible for the training program, who will ensure that the field receives the training needed, and who will oversee the entire process. (II.A.5., page 31)
4. through the Director, issue a request to the DHS Legal Division to develop and deliver by October 1, 1989, a curriculum on legal issues for the training program for child welfare. (II.A.6., page 31)
5. by September 1, 1989, fund and hire three (3) Child Welfare Services field full-time employees as area training coordinators to aid the state office coordinator in administering and overseeing the statewide training program. (II.A.2., page 31)
6. by October 1, 1989, through the Human Services Commission exempt Child Welfare Services from any and all hiring freezes and grant Child Welfare permission to hire from outside the DHS. (I.A.1., page 29)



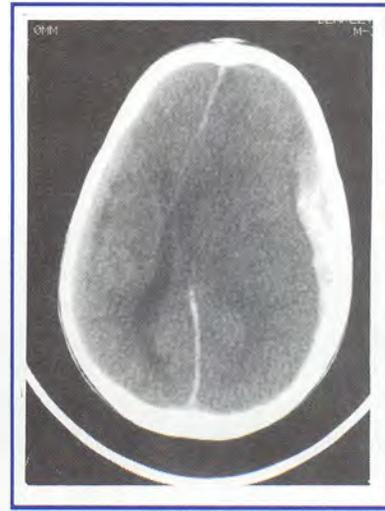
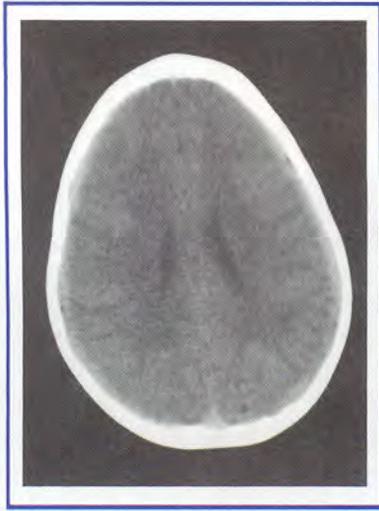
Confirmed cases of abuse and neglect in Oklahoma have increased dramatically.

7. by March 1, 1990, through the Director request that the Office of Personnel Management (OPM) conduct an audit of the Child Welfare Services to determine if the current classification under which child welfare staff operate is commensurate with the actual responsibilities, extended hours, and dangers

associated with protecting children and working with families, and is consistent with guidelines of the Council on Accreditation of Services to Families and Children, and with national standards for salaries for child welfare workers as established by The National Association of Social Workers.

8. through the Director and the Human Services Commission seek legislative approval to increase the total DHS full-time employee ceiling and to give Child Welfare additional funded staff positions to meet their mandated responsibilities in a more timely and effective manner. All authorized positions should be hired and filled by January 1, 1991. (I.A.3., page 29)
9. by September 1, 1990, collaborate with OPM, the **DHS Personnel Division, and Child Welfare Services, to create and implement a special classification for child welfare workers which recognizes program areas of specialization.** (I.A.4., page 29)
10. through Child Welfare Services, develop technical assistance teams of specialists to assist generalist child welfare workers in rural counties. (I.A.5., page 29)
11. by FY 1992, through the Human Services Commission reinstitute graduate level scholarship programs and direct the Personnel and Finance Divisions to create a commensurate pay scale to reward staff who have graduate education. (I.A.6. page 29)
12. by FY 1991, through the Human Services Commission develop a budget process for the Division of Children and youth Services (DCYS) that is fair and equitable in determining the priorities among DCYS unit's budget requests and program needs. (IV.A.1., page 34)
13. by November 1, 1989, establish Child Welfare Advisory Committees in each child welfare district. (IV.A.2., page 34)
14. by January 1, 1990, develop a comprehensive plan for Child Welfare Services of short range (0 to 2 years) and long range (5 year) goals and objectives. (IV.A.3., page 34)
15. by January 1, 1990, conduct district-by-district team building sessions across the state aimed at building motivation, self-esteem, program ownership, and professionalism in Child Welfare Services staff. (IV.A.5., page 34)
16. through the Director issue a memo by October 1, 1989, requesting each DHS division and office administrator to identify the supervisors and managers that have not been trained in corrective discipline and require them to complete the training. (V.A.1., page 36)
17. through the Personnel Division, complete a status report by March 1, 1990, on the effectiveness of the corrective discipline procedure. (V.A.2., page 36)
18. by FY 1991, through the DHS Staff Development Unit and the Office of Personnel Management develop and implement a core management curriculum for DHS supervisors and managers, and conduct such training for all DHS supervisors and managers within a year. (V.A.3., page 36)
19. through the Director initiate the development of a **series of education and discussion seminars on high standards of employee performance, professionalism, and program integrity with the goal of enhancing DHS's public image as well as motivating all DHS employees to take pride in their work.** DHS's Division Administrators should work with the Staff Development Unit of the Personnel Division to develop a seminar series by January 1, 1990, and complete the series by September 1, 1990. (V.A.4., page 36)
20. complete and issue the long awaited comprehensive revision of Child Welfare policy by January 1, 1990, and train all staff on the revised policy within 30 working days after the policy is issued, i.e. a rule promulgated under the Administrative Procedures Act. By January 1990, the DHS establish for every division or unit providing services to children and families policy and procedures which delineates the responsibility of each staff member and the agency for the detection and recognition of children at risk of abuse and neglect. The policy should also describe the appropriate response to these children by staff and the agency. (III.A.1., page 33)



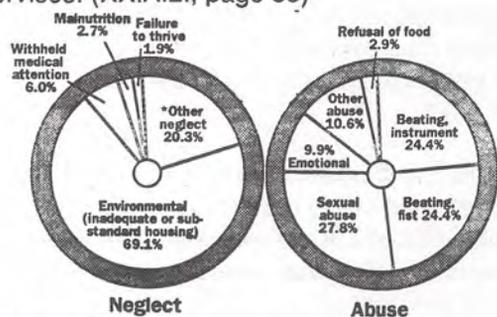


A normal x-ray of a small child's skull. The scan on the right shows a white thickened area that represents bleeding inside the child's skull. This bleeding is compressing the brain, and is commonly seen in "shaken child syndrome".

Wallace Hooser, MD, Radiologist, Saint Francis Hospital, Tulsa

21. through Child Welfare Services develop a procedure by October 1, 1989, to ensure that local workers receive draft policy for comment, are given time to review and submit comment, and receive written feedback from the state office on their specific comments. (III.A.2., page 33)
22. through the Director and the Human Services Commission submit a request for additional child welfare staff and allocate a position in the Child Welfare Unit to add a specialist in child welfare policy development. (III.A.4., page 33)
23. through Child Welfare Services immediately develop a schedule of statewide consultation on existing policy, to be completed by November 1, 1989, to ensure that all staff review and understand existing policy and are provided with a specific procedure for requesting clarification or assistance when policy questions arise. (III.A.5., page 33)
24. during FY 1990 and 1991, the DHS Legal Division in conjunction with Child Welfare Services develop written protocol that can be used for interagency agreements regarding child abuse confidentiality and release of information issues. (XVIII.A.1., page 53)
25. through Child Welfare Services instruct supervisors to reinforce with all child welfare workers the importance of confidentiality with reporters/complaints of suspected abuse. (XVIII.A.2., page 53)
26. through the Unit Supervisor of Child Welfare Services, request a review and written report by November 1, 1989 from staff responsible for intake/investigation policy and procedures to identify DHS practices which act as barriers to citizen reporting. (XXIII.A.2., page 60)
27. through the Unit Supervisor of Child Welfare Services, issue a directive by October 1, 1989, instructing district supervisors and local supervisors to begin fulfilling their assigned responsibilities of conducting periodic case reviews and management conferences with local workers. The Division of Children and Youth Services' Monitoring and Review Unit is to place special emphasis on verifying the occurrence of case reviews and management conferences by supervisors as required by Section 1416, DHS Policy Manual. (XXV.A.1., page 63)
28. during FY 1990, Child Welfare Services reevaluate the priority system for investigating child abuse reports to include neglect as a high priority. (XVII. A.2., page 52)
29. during FY 1990, through Child Welfare Services in conjunction with the DHS Graphics and Publications Services and the State Department of Health Office of Child Abuse Prevention, develop a statewide public education campaign on child abuse and neglect. (IV.A.4., page 34)
30. during FY 1990, provide financial assistance to the statewide public education and awareness campaign planned by the Governor's Cabinet Council on Children. (XVII.A.1., page 52)
31. During FY 1990, through the Human Services Commission fund a statewide media campaign to recruit foster parents. (XXII.A.1., page 57)
32. during FY 1990, through the Human Services Commission provide sufficient matching funds to begin implementation of the federal Title IV-B plan to improve Oklahoma's foster home program. (XXII.A.2., page 57)

33. by July 1, 1990, through Child Welfare Services establish a risk assessment process that identifies children who can remain in the home with the help of intensive services, and subsequently divert, for the development of intensive services, the funds that would have been normally used for a foster care arrangement. (XXII.A.3., page 57)
34. by October 1, 1989, through Child Welfare Services temporarily assign additional foster care workers to needy counties to recruit foster homes and provide services to foster care children. (XXII.A.4., page 57)
35. by January 1, 1990, Child Welfare Services develop a proposal for funding the foster program with sufficient resources to establish and maintain a quality program. The proposal should be funded no later than May 1, 1990. (XXII.A.6., page 57)
36. take the lead on scheduling meetings to develop greater service coordination between Child Welfare Services and domestic violence programs so that specific procedures for referral to one another are developed and implemented by June 30, 1990. (XXI.A.3., page 56)
37. in any child abuse case with concurrent domestic violence, include intervention and counseling for the male batterer and female victim in all DHS prepared or court approved treatment plans. (XXI.A.4., page 56)
38. give budgetary priority in FY 1991 to the following services for abused and neglected children: 20 therapeutic foster care beds; 6 additional specialized community homes, with 4 beds; 30 additional Level D group home beds; 12 Level E beds; emergency concrete services to families in crisis (home-based); and expansion of parent-aide programs across the state such as those currently located in Oklahoma, Garfield, and Comanche Counties. (XX.A.1., page 54)
39. through the Division of Children and Youth Services explore public as well as private funding sources and explore various models from other states, which will assist with broadening the continuum of family services. (XX.A.2., page 55)



*_includes unfulfilled emotional and educational needs.

This graph provides a break down of the 7,522 DHS confirmed cases of abuse and neglect in Oklahoma in 1988.

Within the next year the Legislature should:

1. enact legislation during the fiscal year 1990 session mandating the establishment by October 1, 1990, of multidisciplinary review teams organized by the district attorney in each jurisdiction. These teams should coordinate information and monitor disposition of DHS confirmed priority 1 and 2 child abuse referrals; perform critical incident reviews of child deaths or severe injury cases not prosecuted, and receive for review any case that generates conflicting professional opinions during investigation. (VI.A.1., page 38; XXIII.A.3. page 60)
2. enact legislation creating and funding by July 1, 1990, the Child Abuse Training Coordinating Council (CATCC) to identify and make provision for multidisciplinary training on child abuse issues for professionals across the state with responsibilities affecting children. (VII.A.1., page 40; XXI.A.1., page 56)
3. enact legislation creating the Oklahoma Child Death Review Board as outlined on page 61, for legislative approval and funding by June 1, 1990. (XXIV.A.1., page 61)
4. by FY 1991 appropriate sufficient funds to DHS to purchase liability insurance for foster parents. (XXII.A.5., page 57)

Within the next three years the Legislature should:

5. enact legislation to provide for specific civil immunity for police officers and social workers when acting within the scope of their duties and in good faith. (XVI.A.1., page 49)
6. enact legislation to allow video tape and other hearsay statements of an abused child to be admissible evidence, especially at a preliminary hearing. (Amend O.S. 752, 753 to make compatible with 10 O.S. 1147, 1148. Also amend 12 O.S. 2803.1). (XII.A.1., page 57)
7. enact legislation to eliminate the necessity of a jury trial in juvenile termination of parental rights proceedings. (Amend 10 O.S. 1110). (XII.A.3., page 57)
8. enact legislation to require coordination of juvenile and criminal cases to prevent children from testifying several times before different juries. (Amend appropriate sections of Titles 10 and 22 O.S.) (XII.A.2., page 57)
9. set guidelines as to the duration of in-court testimony that can be obtained from a child in a single episode

- of testimony so that the time frame considers the child's ability to tolerate examination. Also, set guidelines as to a lawyer's behavior toward the child during questioning. (Amend appropriate sections of the Evidence Code Title 12). (XII.A.4., page 45)
10. enact legislation that defines corroboration in 12 O.S. 2803.1 to permit admissibility of children's out-of-court statements. (XII.A.5., page 45))
 11. enact legislation that allows consistent statements of children to be considered sufficient corroborative evidence. (XII.A.6., page 45)
 12. enact legislation to require all hearings involving child victims to be set within a short specified period of time. (XII.A.7., page 45)
 13. enact legislation requiring all such cases to be heard when set and not to be continued without exigent, valid cause. (XII.A.8., page 45)
 14. enact legislation to make paramount the child's best interest when considering continuances. (XII.A.9., page 45)
 15. allow the court the power of sanctions for witnesses found to be in bad faith. (XII.A.10. page 45)
 16. enact legislation to modify the Rule of Sequestration to allow relatives, friends, and caretakers to be present and close during the child's testimony. (XII.A.11., page 45)
 17. enact legislation to allow devices to be used, e.g. video taping, screening, or two-way mirrors which protect a child from further victimization by the perpetrator or the system. (10 O.S. 1147, 1148 and 22 O.S. 752, 753). (XII.A.12., page 45)
 18. amend current video tape and hearsay statutes (10 O.S. 1147, 1148; 22 O.S. 752, 753; and 12 O.S. 2803.1) to apply to children under the age of 12 who have been physically abused. (XII.A.13., page 45)
 19. enact legislation requiring attorneys to be appointed to represent the child victim in the criminal prosecution of sexual abuse. (Amend 21 O.S. 846). (XII.A.1., page 45)
 20. enact legislation allowing hearsay statements of physically abused children to be admissible evidence. (XIII.A.2., page 46)
 21. enact legislation to require as a contingency of the bond that the accused have no contact with the child victim or his caretaker without the permission of the court. (XIII.A.3., page 46)
 22. amend intimidation of a State's witness (21 O.S. 455) to include those endorsed on a juvenile petition. (XIII.A.4., page 46)
 23. enact legislation requiring the appellate process, including the opinion, to be completed within a specified period of time in cases involving victimized children. (10 O.S. 1123, et. seq.) XIII.A.5., page 46)
 24. enact legislation establishing a compelling state interest in the welfare of children, and make statutory amendments to allow juvenile court involvement when a child has been abused and the perpetrator is unknown or out of the household. (See 10 O.S. 1101, et. seq.). (XIII.A.6., page 46)
 25. increase to life the punishment allowed for child abuse. (21 O.S. 843). (XIV.A.1., page 48)
-
- "Some day, maybe, there will exist a well-informed, well-considered, and yet fervent public conviction that the most deadly of all possible sins is the mutilation of a child's spirit".***
- Erick Erikson
Journal of the American
Medical Association, 1972.
-
26. enact legislation amending 21 O.S. 1123, 111, and 1114 to define "lewd molestation" to include acts identified on page 47. Also, Section 1123 should be amended to allow evidence of penetration to be introduced in a lewd molestation case, It should specifically state that penetration is *not* an element in the case. (XIV.A.2., page 48)
 27. amend the "Rape Shield Statute" (21 O.S. 750) to protect rape victims from having their entire sexual history brought into the courtroom on the issue of consent. This statute should also be amended to include victims of lewd molestation (21 O.S. 1123), sodomy (21 O.S. 886 et. seq.), and rape by instrumentation (21 O.S. 1111, 1114), and should preclude their sexual history and sexual conduct from being brought into a criminal case. (XIV.A.3., page 48)
 28. combine the statutes regarding sodomy (21 O.S. 886, 888) since they cover the same crime. The statutes should also be reviewed to define anal and oral sodomy, state that a person under the age of 16 cannot give consent to the crime of sodomy, and clarify that penetration is not always an essential element in the crime of sodomy. (XIV.A.4., page 48)

29. to be consistent with other child sexual abuse criminal provisions, amend 21 O.S. Supp. 1986, 1114(A) (1), to include victims under the age of 16. (XIV.A.5., page 48)
30. classify rape of any victim under age 16 by a member of the same sex as rape in the first degree and punish accordingly. (XIV.A. 7., page 48)
31. classify rape by instrumentation of any victim under the age of 16 as rape in the first degree and punish accordingly. (XIV.A.6., page 48)
32. enact legislation that will allow the court to adjudicate a child deprived based on the abusive or neglectful behavior of extended family members (10 O.S. 1116) and provide statutory authority for the court to order treatment options for stepparents, "live-ins", and others who have significant responsibility and contact with the deprived child. (10 O.S. 1116, 1121). (XV.A.1., page 48)



Failure to thrive in an infant usually results from the most severe cases of emotional neglect and can result in permanent disability or death.

The Chief Justice of the Supreme Court should:

1. by January 1, 1990, mandate that within 30 days of election or appointment, each judge with family law or juvenile law case responsibility will receive a minimum of eight hours initial training in child abuse, child neglect, child sexual abuse, and the dynamics of family violence. (X.A.1., page 42)
2. by November 1, 1989, convene a committee to select an appropriate curriculum for this initial training described in #1 above. (X.A.2., page 42)
3. select a representative of the judiciary who is an expert in family law to participate on the governing

board of the proposed Child Abuse Training Coordinating Council. (X.A.3., page 42)

4. mandate by July 1, 1991, participation by every judge with family law or juvenile law case responsibility in the curriculum selected by the Child Abuse Training Coordinating Council. In the event a curriculum is not selected by the CATCC, the chief justice will convene a committee to identify an appropriate curriculum before September 1, 1991. An appropriate curriculum will include a minimum of 32 hours training in child abuse and neglect and the dynamics of family violence and will include a yearly review and update component. (X.A.4., page 43)
5. direct the Office of the Court Administrator to prepare a synopsis of current statutory and case law on appointment of counsel for the child in deprived and criminal cases to be completed by January 1, 1990, and distributed to all judges. (XI.A.1., page 44)
6. direct the Office of the Court Administrator to conduct a survey of all judges with family law, juvenile law, and/or criminal law responsibility on practice and procedure regarding appointment of counsel for children, including an estimate of monetary cost, at each stage of deprived or criminal proceedings. This study will be initiated by November 1, 1989, and completed by February 1, 1990. (XI.A.2., page 44)
7. convene a committee to study the results of the survey and develop a plan to deal with problems identified, including cost problems. This plan will be developed by June 1, 1990, and implemented by October 1, 1990. (XI.A.3., page 44)

The Oklahoma Attorney General should:

1. develop a plan and propose necessary legislation to establish an appeal process in the Attorney General's Office of actions taken by District Attorneys in child abuse and neglect cases. This appeal may be initiated upon a recommendation of the Oklahoma Commission on Children and Youth or at the discretion of the Attorney General. (XXVI.A.4., page 64).

The District Attorney's Council should:

1. develop or contract for a specialized curriculum, pre-service and ongoing, on child abuse and domestic violence by November 1, 1990. The Council should participate on and coordinate adopted training through the proposed Child Abuse Training Coordinating Council. (XXVI.A.1. and 2., page 64)

2. also adopt or develop a module of multidisciplinary training to emphasize probation and treatment plan restrictions to protect the child victim. (XXVI.A.2., page 64)

One group of studies examined the child rearing practices in homes of offenders convicted of first degree murder or who were habitually violent and found that when those offenders were children they had been the victims of remorseless physical brutality at the hands of their parents.

National Center on Child Abuse and Neglect
U.S. Department of Health and Human Services
Washington, D.C.

The Oklahoma Medical Association and Oklahoma Osteopathic Association should:

1. identify and encourage participation in statewide multidisciplinary training for all Oklahoma physicians who offer primary care to children, and should participate on the proposed Child Abuse Training Coordinating Council. The Council should identify, by July 1, 1991, for review and approval of the medical community, in residency training and continuing education courses on abuse and neglect identification, reporting, and treatment for pediatricians and family practitioners. (XXVII.A.1., page 65)
2. during FY 1991, the University of Oklahoma College of Medicine and Oklahoma Children's Hospital seek funds to develop a program of consulting assistance to physicians in rural areas on diagnosing, documenting, and testifying on child abuse and neglect. (XXVII.A.3., page 65)

The Council on Law Enforcement, Education, and Training should:

1. effective July 1, 1990, increase the number of hours of pre-service training and provide at least eight hours of on-going training in domestic violence and child abuse for law enforcement officers. (VII.A.1., page 39).
2. coordinate with the proposed Child Abuse Training Coordinating Council after March 1, 1990, for pre-service training, in-service training, and annual continuing education on family violence and child abuse for law enforcement officers.

The Oklahoma State Department of Health should:

1. request FY 1991 funding from the Legislature of \$3 million to provide full-service health departments with strong child guidance clinics in every county. (XX.A.3., page 55)

The State Department of Education should:

1. during FY 1990, arrange for training in child abuse and neglect for teachers and other public school personnel to emphasize reporting responsibilities and confidentiality. (XVIII.A.3., page 53)

The State Department of Mental Health should:

1. request sufficient funding for FY 1991 to implement a statewide network of domestic violence shelters. (XXI.A.2., page 56)

The Oklahoma Commission on Children and Youth should:

1. establish by January 1, 1990, a standing committee of state agency directors to generate ideas and encourage cooperation among programs providing services to abused and neglected children. (XX.A.5., page 55)

The Governor of the State of Oklahoma should:

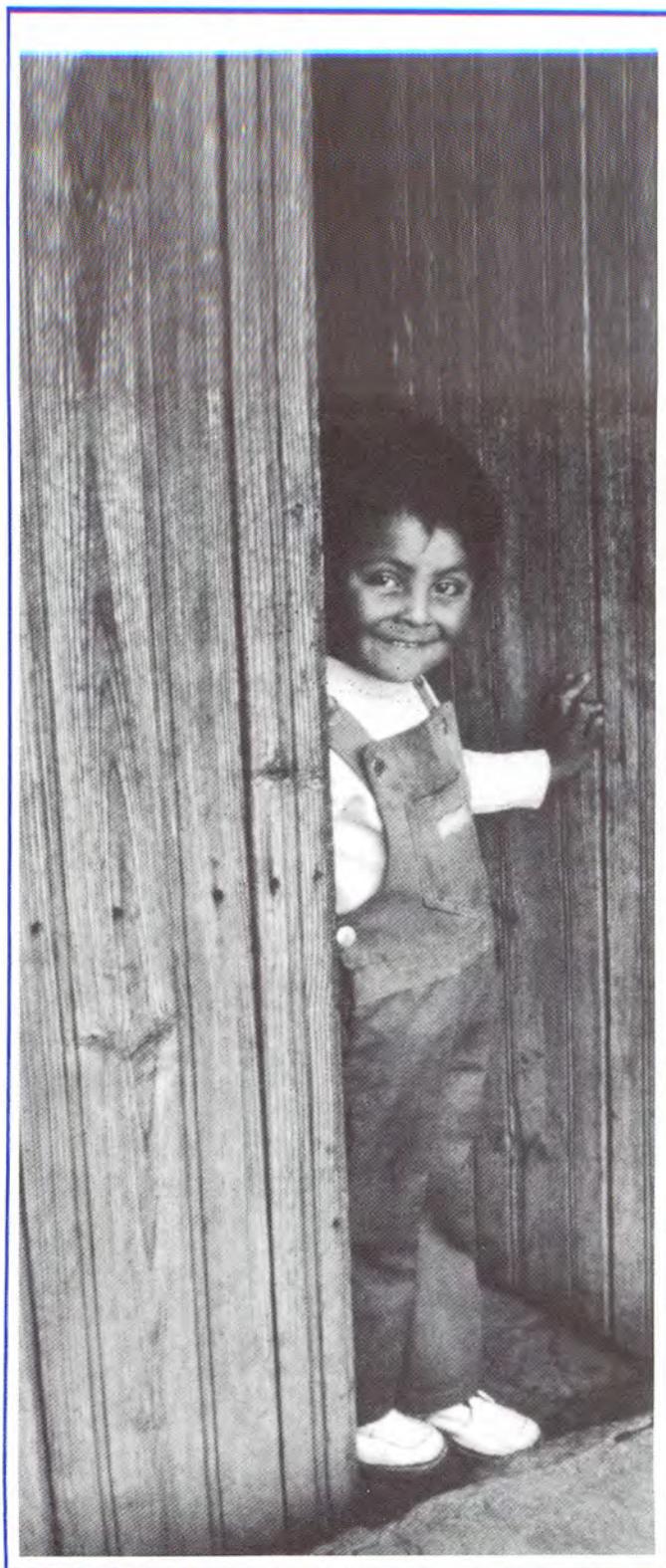
1. include in his budget message to the Legislature provisions in the proposed budgets of the Department of Human Services, the Department of Mental Health, the Department of Health, and the Commission on Children and Youth to fund the implementation of the Study Commission recommendations.
2. offer the support of the Governor's Office to legislation proposed which will implement Study Commission recommendations.
3. issue an Executive Order which converts the Child Abuse Study Commission to the Child Abuse and Neglect Commission.

*"We are guilty of many errors and many faults, but
Our worst crime is abandoning the children,
Neglecting the fountain of life.
Many of the things we need can wait.
The child cannot.
Now is the time his bones are formed;
His blood is constituted;
His senses are being developed.
We cannot answer him "Tomorrow."
His name is "Today."*

Gabriella Mistral
Nobel Prize Winner, Poetry

The Child Abuse Study Commission will:

1. monitor the achievement of each action step listed in this report.
2. assist with writing proposed legislation, such as creation of the Oklahoma Child Death Review Board, liability protection for medical professionals, and increased penalties for crimes of abuse. (XXVII.A.2., page 65; and XXVI.A.3., page 64)
3. assist when requested with developing proposed programs, such as a plan for an appeal process in the Attorney General's office to actions taken by courts. (XXVI.A.4., page 64)



INTRODUCTION

"In the little world in which children have their existence, whosoever brings them up, there is nothing so finely perceived and so finely felt as injustice."

Charles Dickens

A Case History

Matthew is dead. He died on March 26, 1988 alone, struck by a car while wandering the streets in the middle of the night with no place to go after fleeing his home. This 12 year old boy is not included in the Medical Examiner's list of 54 children who died in Oklahoma during 1987 and 1988 as a result of confirmed child abuse and child neglect. He should be case number 55.

From 1979, when the family first came to the attention of the child protection system, to March 4, 1988, when the children were again returned to their mother's custody by the court, Matthew and his six siblings were involved in 10 confirmed incidents of serious abuse and neglect. Sexual abuse was confirmed at least three times, and serious neglect at least five times. They were "vulnerable children" whose best interest was swept aside in favor of a mother who could not protect or provide for her family.(1)

Oklahoma's child protection system failed these children:

- The children were repeatedly neglected, deprived, and abused, but were left in a grossly inadequate parent-child relationship.
- The Department of Human Services, prosecutors, the Court, district attorneys, the attorney for the children, doctors, and other professionals failed to collaborate in a multidisciplinary coordinated review of circumstances affecting these children.
- The numerous service plans prepared for this family by the Department of Human Services were inappropriate and unrealistic. The continued acceptance by caseworkers of maternal excuses contributed to inadequate case planning.
- Inadequate training and supervision as well as frequent turnover among DHS workers and assistant district attorneys resulted in a lack of continuity of case monitoring. Each time a new person became involved, the family was given another chance to respond to treatment. During one year, three different DHS workers were assigned to this

case. Six different Assistant District Attorneys were also involved.

- The court system also failed to properly protect the children. The children were wards of the court during a nine year period. During that time the children were victims of criminal acts, including child sexual abuse, but the perpetrators received neither appropriate treatment nor appropriate punishment. The attorney representing the children also represented the abuser of his clients. The goal of the system remained to reunite the family, finding that it was in the best interest of the children. That was not true for Matthew, victim of child neglect one last time, now dead.

Matthew was killed as much by the system that should have protected him as by the car that struck him. The child protection system was an accessory to his death. This case illustrates the multiple failures of the child protection system which are repeated throughout Oklahoma.

Historical Overview of the Abuse of Children

The Oklahoma Child Abuse Study Commission was legislatively mandated to examine all Oklahoma laws, policies, and procedures relating to child abuse and neglect. One hundred years ago such a study would not have been possible. Historically, society has accepted maltreatment of children. The evolution of the current system of child protection is a phenomenon of the twentieth century. Historic records contain evidence of violence against children, both physical and emotional, including child neglect and sexual exploitation.(2) Infanticide, exposure, child slavery, and child labor were accepted practices in cultures as diverse as ancient Rome, England, China, and the United States.

Common to culturally accepted child maltreatment are two beliefs:

1. "Children were seen as their parents' property and it was taken for granted that parents had every right to treat their children as they saw fit. . . .", and
2. ". . . harsh treatment was justified by the belief that severe physical punishment was necessary to maintain discipline, transmit educational decisions, and expel evil spirits."(3)

The beginning of a change in these views was the development in the United States during the nineteenth century of a new understanding of the needs of children and their right to be protected from abuse and neglect.(4)

In 1825, the New York Society for the Reformation of Juvenile Delinquents established an institution primarily to provide services to delinquent children and, secondarily, for neglected and abused children. In 1874, the New York Society for the Prevention of Cruelty to Children was organized as a result of the famous Mary Ellen Wilson case in which animal cruelty laws were used to protect an abused child.(5) By the early 1920's, most states had passed specific laws against child maltreatment, often within the context of newly created juvenile courts. By the late 1930's, basic networks of public and private child welfare agencies developed.(6)

The recognition by the medical community of "the battered child syndrome", a term first described in 1860 by Ambroise Tardieu, a professor of legal medicine in Paris,(7) accompanied the evolution of the child protection movement. It was not, however, until the early 1960's when an interdisciplinary presentation was arranged by C. Henry Kempe for the annual meeting of the American Academy of Pediatrics on the battered child syndrome, followed by an article in the *Journal of the American Medical Association*, which incorporated pediatric, psychiatric, radiological, and legal concepts, that there was a comprehensive description of the syndrome.(8)

In 1963, the United States Children's Bureau promulgated a model law that required physicians to report children with a "serious physical injury or injuries inflicted other than by accidental means" to a child protection agency. Within four legislative years, all 50 states enacted reporting laws modeled after the Children's Bureau proposal.(9)

The 1960's marked the beginning of a rapid evolution of the child protection system. The abused and neglected child became the object of community concern and the subject of a developing body of laws, policies, and procedures which spanned the legal, law enforcement, and human service systems.

The *Study of National Incidence and Prevalence of Child Abuse and Neglect*, published in 1988 by the U.S. Department of Health and Human Services concluded that more than one and one-half million children experienced abuse or neglect in 1986. The most frequent type of abuse was physical, followed by emotional and sexual abuse. In 1986, 375,000 American children suffered sexual abuse. Since 1980, the number of cases of maltreatment increased 66%. The most significant portion of the increase represented an increase in the

incidence of abuse (74%). Since 1980, physical abuse increased nationally by 58% and the incidence of sexual abuse more than tripled. Reporting and confirmation patterns were found not to have changed significantly, with an estimated 53% of all reported cases substantiated by protective service units.

Incidents of child abuse, child neglect, and child sexual abuse in Oklahoma have increased at the same alarming rate. Although the percentage of children in the general population has remained steady (27%), reports of abuse and neglect have increased 120% over the last eight years: from 10,109 in fiscal year 1981 to 23,179 in fiscal year 1988. The number of confirmed cases of abuse and neglect increased 101%: from 3,733 in fiscal year 1981, to 7,522 in fiscal year 1988.

Perhaps the most alarming statistic is that child abuse and/or child neglect claimed the lives of 162 children in Oklahoma in the past six years; 54 of those children died between July 1, 1986, and June 30, 1988.

Child abuse and child neglect result in permanent and serious damage to the physical, emotional, and mental development of children. Severe physical injuries cause mental retardation, blindness, deafness, loss of limbs, and disfigurement. An estimated 50% of abused children will experience significant developmental delays, slow physical growth or mental development, and impairments in language, perceptual or motor skills. The most severe abuse results in coma or death.

Abuse and neglect are often as damaging emotionally as they are physically, resulting in lowered self esteem, poor self concept, and defensive functioning. Abused children often exhibit higher levels of aggression, anxiety, and self destructiveness. The abused child is likely to become a troubled teenager and an equally troubled adult, requiring costly juvenile detention, and psychiatric treatment, and subsequent prison confinement.

Providing prevention and intervention services to families and children is not only in the best interest of the children, it is in the social and financial interest of Oklahoma. The Study Commission's report examines specific issues which confront the child protection system and impair the effectiveness of the system.

PRIMARY COMPONENTS OF OKLAHOMA'S CHILD PROTECTION SYSTEM

The State of Oklahoma has designated by law and policy three primary systems which respond to reported incidents of child abuse, child neglect, and child sexual abuse:

- *Law Enforcement*, which includes police and sheriff departments;
- the *legal system*, which includes the courts, district attorneys, practicing attorneys, and the statutes which govern the actions of these components; and
- the *social service system*, primarily the Department of Human Services, Division of Children and Youth Services, Child Welfare Unit.

These three major systems are augmented by a community network of health and social service providers. The legal system, law enforcement, and the Department of Human Services are only three of at least fifteen related components including schools, private social service agencies, and public and private health services.

The Legal System

"In the eyes of the law, to be a CHILD is to be at risk, dependent, and without capacity or authority to decide free of parental control what is best for oneself. To be an adult is in law to be perceived as free to take risks with the independent capacity and authority to decide what is best for oneself without regard to parental wishes. To be an ADULT who is a parent is therefore to be assumed by law to have the capacity, authority, and responsibility to determine and to do what is good for one's children, what is best for the entire family."(10)

The legal system is society's method of resolving disputes or conflicts between people. The adversary process, the presentation of two conflicting points of view by an advocate, is the method used to resolve conflict. This method, however, "has not proved to be appropriate in family law, where the need is for harmonizing the interests of the family members, and negotiating conflicts between the rights of parents and the rights and developmental needs of children. In family law, the predominant need is not to establish guilt, but to work out complex interpersonal, economic, and social problems".(11)

Laws which allow for state intervention in the family range from the assignment of a child at birth to his biological parents by birth certificate to the removal of

the child if the child is at risk and the parents are found to be unfit. "The traditional goal of state intervention is to serve the best interest of the child".(12)

Laws which permit intervention in the family exist in two broad areas and empower each component of the child protection system.(13)

1. Those matters about which there is clear societal consensus such as compulsory education, compulsory immunization, child labor.
2. Those matters which allow judges and state agency personnel to act as parents patriae "to investigate, supervise, and supervene parental judgment".

In Oklahoma the laws which relate to the child protection system are contained in two sections of statutes. Title 10, first enacted in 1909 and subsequently amended, provides the statutory scheme pursuant to which the legal system may intervene to protect the abused or neglected child. This scheme also is designed to protect the rights of the parents and children. Title 21, which deals mainly with criminal matters, contains the laws which govern reporting of child abuse and neglect.

The most common way in which a child comes to the attention of the child protection system is through a report made pursuant to Title 21, O.S. §846 (1987) to the Department of Human Services, specifically:

Every physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years and every registered nurse examining, attending, or treating such child in the absence of a physician or surgeon, every teacher of any child under the age of eighteen (18) years and every other person having reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon him or her by other than accidental means where the injury appears to have been caused as a result of physical abuse or neglect, shall report the matter promptly to the county office of the Department of Human Services in the county wherein the suspected injury occurred.

After a petition is filed with the Juvenile Division of the District Court, a summons is issued, "requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated". (§1104)

"If it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the judge may immediately . . . authorize the taking of the child into custody". (§1104 [d])

"A hearing on the petition is conducted, as in all other cases, except the hearing is private, unless specifically ordered by the judge to be conducted in public". (§1111)

"If the trier of fact finds, by a preponderance of the evidence, that the allegations of the petition are supported by the evidence, and that it is in the child's best interest that he or she be made a ward of the court, the court will make an order of adjudication finding the child is deprived". (§1114)

The statutes provide a full range of procedural due process protections, including the right to trial by jury and the right to counsel.

The Juvenile Court system functions most appropriately to review and monitor the work of competent professionals who are skilled in human relations and family dynamics and able to devise and manage treatment plans for children and families. The court, when functioning ideally, provides authority required to ensure implementation and monitoring of the plan. (14)

Law Enforcement

Law enforcement, which includes the sheriff of each county and police departments which exist in communities, has the primary role of investigating incidents of crime in Oklahoma. Child abuse, child neglect, and child sexual abuse are *crimes*.

The focus of child protection was originally law enforcement. The first child protection agency, the New York Society for the Prevention of Cruelty to Children, was "the model for the law enforcement approach to child rescue, with its agents exercising police powers under legislative authority".(15)

During the 1960's most states moved from a pure law enforcement approach to child protection to a "child protective services response to suspected incidents of maltreatment".(16) This is the scheme utilized in Oklahoma, a scheme which emphasizes treatment rather than punishment. Law enforcement, however, retains an important role in this scheme.

A law enforcement officer is authorized to immediately take custody of any child who is in a situation which endangers his welfare. The officer is then required to report to the judge (§1107), and the provisions of 10 O.S. §1101 controls the judge's subsequent action.

The larger police departments in Oklahoma provide specialized children's and child abuse units, with officers who are trained in child abuse investigation and interviewing techniques. At least one city (Tulsa) is utilizing a multidisciplinary team approach (including the District Attorney, Department of Human Services, Police Department, and a physician) to managing child abuse and neglect cases.

The Office of the District Attorney is authorized by 19 O.S. §215.1(1965). The District Attorney, or his or her assistants, are required to "prosecute all actions for crime committed in his district. . ." (19 O.S. §215.4 [1965]) including the filing of a petition in juvenile proceedings (10 O.S. §1103 [1982]) which include cases of abuse and neglect. The District Attorney represents the State of Oklahoma in all child protection proceedings.

The District Attorney receives child abuse reports from the Department of Human Services pursuant to 21 O.S. §846. Exact procedures for the processing of these reports to determine if a petition should be filed in juvenile court, a criminal complaint should be filed against the perpetrator, or both, are unique to each D.A.'s office.

The Social Service System

The establishment of a child welfare system and children's protective services was a logical development of the child welfare movement in the United States. In Oklahoma, the state agency previously known as the Department of Public Welfare and then the Department of Institutions, Social and Rehabilitative Services, became known in 1980 as the Department of Human Services (56 O.S. §162.1).

The social service component of the child protection system has become synonymous with the Department of Human Services because this agency provides the state funded response to this problem. Within the current Department of Human Services, the Division of Children and Youth Services, Child Welfare Unit is the entity designated to ensure that children are protected from harm. There are two aspects to the mandate:

1. To identify, treat, and prevent child abuse and neglect; and

2. To ensure that reasonable efforts are made to maintain and protect children in their own homes.

The Child Welfare Unit provides directly or contracts with individuals or agencies to provide services to abused and neglected children and their families, including a statewide child abuse hotline; investigation of reports; treatment services; foster homes services, community based residential care services, and emergency shelter and group home services. There are numerous health and social service providers that also voluntarily serve abused and neglected children.

The Department of Human Services is the agency mandated by 21 O.S. §846 to receive reports of child abuse. The county office receiving the report investigates and forwards findings to the District Attorney. DHS is also mandated to maintain a permanent registry, The Central Child Abuse Registry, of all report findings.

Pursuant to Title 10 O.S. §1101, et seq. (1988) the Department of Human Services may make the preliminary inquiry to determine whether the interests of the child require that court action be taken (§1103), provide protective custody, provide investigative information to the court, post adjudication placement plans (§1115.1), and review reports (§1116.1).

DHS operates under the scrutiny of the court. Children can not be removed from their homes without a court order, except for a brief period of time on an emergency basis by a law enforcement officer, and no order of a court may be entered without a determination by the court of whether or not "reasonable efforts have been made to prevent the need for removal and, as appropriate, reasonable efforts have been made to provide for the return of the child to his home; or without a determination whether or not an absence of efforts to prevent the removal of the child from his home is reasonable under the circumstances, if such removal of the child from his home is due to an alleged emergency and is for the purpose of providing for the safety of the child". (§1104.1)

Conclusion

Child abuse, child neglect, and child sexual abuse are a community problem that require a community response. The child protection system is not one agency or one service delivery system. The system includes a complex network of functions and activities. All individuals and agencies must coordinate services and cooperate in an interdisciplinary interagency effort to perform the protective service function adequately.(17)

HISTORY AND STRUCTURE OF THE OKLAHOMA CHILD ABUSE STUDY COMMISSION

In Oklahoma, the child protection system is failing. The Oklahoma Child Abuse Study Commission was created by legislation proposed by Governor Henry Bellmon in response to his concern that "even one death from child abuse is a terrible tragedy. To have more than 50 of Oklahoma's children die from abuse and neglect in less than two years is totally intolerable. We must, can and will improve our laws, our policies, our procedures, and our programs for dealing with this insidious problem."

Title 62 O.S. §21 mandated the Study Commission to examine Oklahoma's law, policies, procedures, and practices related to child abuse and neglect, including reporting requirements and practices, investigating procedures, civil proceedings to remove children from their homes, criminal prosecutions, and any other aspect of the child protection system the Study Commission may determine it should review. (For full text of statute see Appendix, page 76.) The 27 members of the Study Commission were appointed by the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. All meetings were held in compliance with the Open Meeting Act, although executive sessions were convened to review information on individual child abuse investigations.

The first task of the Commission was to identify and adopt a Mission: "To provide legislative and administrative recommendations which, upon implementation, will improve the system which protects the children of Oklahoma from all forms of child abuse and neglect."

The following goals were established:

1. Develop a legislative agenda for changes in the statutes which govern the reporting, investigation, and adjudication of incident's of child abuse and neglect.
2. Recommend changes in agency policy and procedures which will facilitate the protection of children.
3. Develop budgetary recommendations for implementation of recommended strategies.

The membership of the Study Commission was divided into four task groups:

Law Enforcement, Legal, and Judicial which focused on the functioning of those systems relevant to the reporting, investigation, and prosecution of abuse and neglect.

Department of Human Services, which focused on agency policy and procedures for the protection of abused and neglected children and their families as they relate primarily to intervention and case planning.

The Community Service System, which focused on other state, local, and private agencies providing prevention and treatment services to children and their families.

System Failure: Recurring Abuse and Child Deaths, which focused on the systemic gaps that are evident from cases of child abuse and/or neglect, especially when neglect or abuse continues after initial intervention, or when the death of a child occurs as a result of abuse.

THE FOUNDATION: PRINCIPLES FOR OKLAHOMA'S CHILD PROTECTION SYSTEM

Society creates social programs in response to a perceived problem. Once created, however, a program can grow and expand to such a degree that any sense of the original mission of the program is subverted or lost.

In order to accomplish a complex task when diverse interests share responsibility for the task, all actions must be founded on a common set of principles or beliefs which provide guidance and direction to activities. A common mission, which is based on a well articulated set of principles, will ensure that, as programs grow and many organizations become involved in addressing a problem, the activities of all components are mutually supportive and consistent.

Protecting Oklahoma's children from abuse and neglect is a complex task addressed by a network of organizations. All components of the child protection system must function as interdependent components rather than as independent entities if the network is to succeed. To achieve this all components must operate according to a common set of principles which are the foundation of the activities of all organizations sharing the responsibility for accomplishing this important mission.

The Oklahoma Child Abuse Study Commission recommends that the operation of all programs, services, and activities of public and private organizations charged with protecting our children be founded upon the following principles:

Each child is a unique, valuable, and treasured resource.

The primary protector of a child is his/her family. Society shares this responsibility and should preserve the family's dignity and its right to make decisions to the fullest extent possible.

Every child needs to be loved and nurtured consistently by another human being.

Every child needs to feel safe and secure.

Every child needs to have a home.

Each child needs to be protected from those stronger and more powerful who threaten their safety and security.

All children need access to adequate nutrition, and physical and mental health care.

All children need to be educated to the limits of their capability through processes designed to develop their maximum potential.

Childhood is a time for exploring and learning through both success and failure. Each child should be allowed to experience the opportunities of childhood without the expectations imposed on mature adults, and be permitted meaningful choices at appropriate points in their development.

Services provided to children and their families should be tailored to the needs of individual children and reflect the sequence, pattern, and circumstances of a child's current functioning.

Children cannot speak for themselves and must rely on others to speak for them.

Those appointed to speak for children must be free of conflicting obligations and knowledgeable in the needs of children.

Processes which protect children must be speedy and decisive so that the permanency of children's lives is maximized.

Every child who is in conflict with society should be dealt with compassionately as society's charge, not society's outcast.

These principles should be applied equally to all children without distinction or discrimination because of race, color, sex, handicap, religion, or beliefs.

