



CHILDREN, FAMILIES, AND THE COURTS



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Effectively Intervening with Dual Jurisdiction Youth in Ohio

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Background

Over the years, a substantial body of research has confirmed the strong correlation between child maltreatment and subsequent delinquency. The literature is replete with well-designed longitudinal and prospective studies that consistently reaffirm the effects of child abuse and/or neglect on a host of behavioral problems including the higher risk of future delinquent behavior and the need for effective prevention and early intervention efforts.¹ The literature also has begun to specify specific characteristics of these children and their families – particularly histories of domestic violence, parental incarceration as well as placement instability – that increase the likelihood of subsequent delinquent/criminal behavior.²

There has, however, only been limited discussion on how best to intervene in cases in which a child is considered both delinquent and dependent,³ or instances in which responsibility for delinquent or dependent youth is passed from the one system to another because of identified behavioral and/or familial problems.

Numerous questions arise regarding the proper court response in these matters (including whether case consolidation is appropriate); the degree of case coordination between juvenile probation/parole, child welfare and behavioral health required to effectively intervene in these cases; and how best to access and fund the myriad of expensive services these youth typically need.

The Child Welfare League of America (CWLA) has encouraged a national, state-level and local dialogue to examine ways to improve integration and coordination across the juvenile justice and child welfare systems. This includes enhanced collaboration between child welfare and juvenile justice to 1) improve delivery of services and continuity of treatment as children transition between the two systems; 2) improve dispositional planning, case coordination and supervision; and 3) more effectively provide services to children and their families concurrently involved in both systems.⁴

The National Center for Juvenile Justice (NCJJ)⁵ recently developed a Technical Assistance Bulletin entitled *When Systems Collide: Improving Court Practices and Programs in Dual Jurisdiction Cases* that identifies and highlights promising court-based practices and programs that have the potential to address the difficult challenges posed by dual jurisdiction cases. It is an initial effort to present what juvenile courts currently are doing or what juvenile courts can do to improve coordination of dual jurisdiction matters. This bulletin, funded through an U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) grant was completed in conjunction with work on an Arizona study profiling youth who are both dependent wards and on juvenile probation as well as examining barriers to effective court intervention with this population.⁶

When Systems Collide...identifies five categories of court practice that are particularly relevant to the handling of dual jurisdiction matters.⁷ Within these five categories, NCJJ identified more specific court-based or court-linked practices that were considered germane:

- *Screening and assessment*: meaning, from initial intake on, standardized processes and tools used by the court and other agencies to ensure that juveniles with involvement in dual systems are identified and their needs, risks, and safety issues properly assessed.
- *Case assignment*: meaning special procedures implemented by the court to assign dual jurisdiction matters to judges, attorneys, and others involved in dependency and delinquency processes.
- *Case flow management*: meaning special steps taken in the court process, from the filing of petitions through disposition and beyond, that provide for substantive and timely handling of dual jurisdiction proceedings.
- *Case planning and supervision*: meaning unique approaches evident after the court process has been initiated that include having someone or a team responsible for coordinating services for these youth and their families, and providing supervision of these cases.

- *Interagency collaboration*: meaning substantive agreements between the court and other agencies that clearly delineate roles and responsibilities related to youth involved in two systems, and that translate into effective action at the frontline level.

Dual jurisdiction cases present unique challenges to the juvenile court/probation, child welfare, and the behavioral/mental health communities. Because of their complexity, these cases drain scarce resources from child welfare agencies, probation departments, behavioral health systems of care, and the courts themselves. They prompt unintended duplication of case management efforts. They usually guarantee the influx of multiple parties and professionals, some with conflicting goals and missions, adding substantial costs and detracting from effective and timely action.

Defining Dual Jurisdiction in Ohio

Almost by definition, most dual jurisdiction youth defy singular categorization. Dual system youth display an exceptional range of behaviors, needs, and risks as well as prior/current involvement with the juvenile justice and child welfare systems. The unique characteristics of dual jurisdiction cases and the systemic impact these cases present require a greater recognition of the need for expanded interagency collaboration – an approach that looks different and is considerably more complex than standard probation, standard child welfare, or standard behavioral health case management. The challenge, of course, is how to implement effective changes – particularly in times of limited resources.

This expanded version of the newsletter examines some of the challenges and special approaches being taken in four of Ohio's largest counties – Cuyahoga, Franklin, Hamilton, and Lucas counties. As appropriate, some emerging efforts in other states are examined. However, while there appears to be growing recognition of the special needs of dual jurisdiction youth, local officials continue to struggle to develop a consensus on how best to develop the collaborative arrangements necessary to better share information, coordinate case planning, provide services, consolidate/de-categorize funding streams, and address reintegration/permanency concerns. To accomplish these tasks in a fashion that

Child Welfare League of America (CWLA) — Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration

The *Guidebook* maintains that the child welfare and juvenile justice system have historically operated separately, driven by divergent statutory mandates, funding appropriations, mission statements, and service plans that dissuade collaboration, coordination and integration. The monograph provides practical guidance for state and local jurisdictions in their efforts to identify what coordination and integration efforts will best achieve improved outcomes for children and families sequentially or concurrently involved with the child welfare and juvenile justice systems. Visions of system integration and coordination are provided:

Integration: A new system of handling children who cross over both systems – that is – juvenile delinquents who have a history of child maltreatment and children who have been maltreated and are at very high risk of becoming juvenile delinquents. An integrated system could be characterized by, among others, the development of an integrated management information system, blended funding and flexible programming for children and families crossing both systems.

Coordination: Efforts focused on the handling of children who cross over both systems to improve specific points in the process of handling these children in either system. Examples of enhanced coordination could include improved communication between systems when children and families are involved in both systems, shared caseloads when both systems are involved with one family, programs targeted to specific categories of children such as young delinquents, and programs or procedures targeted to specific case processing points to improve overall case handling and outcomes.

Copies of this guidebook and a companion paper outlining an action strategy for promoting a coordinated and integrated child welfare and juvenile justice system can be downloaded directly from CWLA's website (www.cwla.org) and are directly available at: <http://www.cwla.org/programs/juvenilejustice/jjpubs.htm>.

also ensures that community safety concerns are not compromised can be particularly vexing.

In some respects, the dual jurisdiction moniker does not adequately describe the population of adolescent youth concurrently or sequentially handled by the juvenile justice and child welfare systems. A wide range of adolescent youth with varying degree of prior and/or concurrent child welfare and juvenile justice involvement can be included in this category. In Ohio, there are essentially three populations of adolescents who generally fall under this category.

- Adolescents *currently* placed in the legal and/or physical custody of local public child services agencies (PCSA) by the juvenile court who are *subsequently* referred to the court on a delinquency matter.
- Adolescents coming to the attention of the juvenile court on a delinquent matter who upon further investigation are found to also

be maltreated. These youth are *subsequently* adjudicated dependent and placed in PCSA custody.

- Adolescents referred to the court on a delinquency matter who are adjudicated delinquent and, at a disposition hearing, are placed in PCSA custody solely for placement purposes. In these instances, the decision to place in PCSA custody is not primarily due to any underlying neglect or abuse issues identified during court proceedings.

Within each of these three categories, there is considerable variation regarding the degree and timing of prior PCSA involvement. Some children and their families may have been the subject of a previous PCSA investigation that only resulted in a referral for services or some informal provision of services. Other families may have extensive prior histories of PCSA involvement

which include formal juvenile court involvement. In either case, this prior involvement may have been of a recent nature or occurred in years past during the youth's infancy or early childhood.

Additionally, the response of the juvenile court to the delinquency issues before the court can be of differing intensity – diversion for first-time offenders (typically, for misdemeanor offenses) while the more serious and chronic of these offenders are placed on probation, ordered into private placements, or committed to the Ohio Department of Youth Services (ODYS).

Dispositional Options in Delinquency Matters

Ohio statutes give the judiciary considerable flexibility in determining appropriate dispositional orders for youth adjudicated delinquent. As in most other states, juvenile court judges can place a delinquent youth on probation, order the youth directly into a private placement or commit to juvenile corrections – specifically Ohio's Department of Youth Services (ODYS).

However, Ohio statutes provide additional judicial discretion in delinquency matters that permit the court to access any dispositional options available in dependency matters. This allows the judiciary to formally place a delinquent child in the legal and physical custody of PCSA – specifically for placement purposes – without a concurrent finding of dependency.⁸ The court can order this with or without a concurrent term of probation supervision or some other juvenile justice system involvement.

While the frequency of this practice varies considerably across Ohio's 88 counties, statutory provisions that provide the court direct access to the array of services and placement options available through child welfare are a source of considerable debate and controversy. Interviews suggest that the frequency of this practice varies considerably across the four counties with Lucas and Hamilton counties least likely to place a delinquent youth in PCSA custody unless there are clear indications of child maltreatment. Cuyahoga County is somewhat more likely to directly place a delinquency youth in agency custody solely for placement purposes and Franklin County routinely does so.

Issues Impacting the "Shared" Handling of Dual Jurisdiction Youth

Fieldwork conducted in Cuyahoga, Franklin, Hamilton and Lucas counties identified a wide range of issues that impact how responsibility for dual jurisdiction youth are allocated, shared and/or passed between the juvenile court/probation and child welfare systems. The author spent two days in each of these counties (between September 2004 and February 2005) interviewing judges, court administration, juvenile probation administrators and line staff, CPS administrators and caseworkers, and selected service providers. A wide variety of topics were covered examining the degree of overlap and coordination between the two systems and for what types of delinquent-dependent offenders.

These issues can probably be distilled into six distinct categories that summarize the essence of the debate regarding how best to effectively intervene with dual jurisdiction youth and youth destined for placement in private facilities:

1. Who is the population of delinquent youth the juvenile justice and child welfare systems should share responsibility for?
2. How much information should be shared and when?
3. How should financial costs and resources be shared?
4. How much coordinated case planning, case management/supervision and provision of services are appropriate? At what point should coordination occur?
5. How can aftercare and permanency efforts be integrated from case onset? Who is working on what?
6. How is true dual system collaboration established?

Developing Consensus Regarding When Shared Intervention is Appropriate

Interviews conducted at each of the sites reveal considerable ambiguity regarding the types of youthful offenders for whom some type of shared intervention by the child welfare and juvenile justice systems is appropriate. Court/probation and PCSA officials alike acknowledge that there are a substantial number of delinquent adolescents with difficult/problematic home environments and possibly prior agency involvement (often informal) who probably are appropriate for dual system intervention. The ambiguity revolves around two threshold questions:

1. *To what degree do familial problems present a serious risk to the adolescent's safety and/or well-being?* The degree to which these older, more mature children are "old enough to take care of themselves" may be a factor in the decision-making process. In most instances, PCSA involvement is reserved for serious cases of neglect and abuse or in other instances in which the inability of parents to provide the necessary parental care and supervision is acute.
2. *How serious of an offender is this juvenile?* Child welfare generally does not have the resources to address the needs of and find an appropriate placement for a juvenile with very serious behavioral problems and in which community safety issues are a major concern. Court/juvenile probation officials, however, typically feel that agency involvement is warranted – particularly if on-going or serious issues of familial neglect or abuse are evident.

From the PCSA perspective, juvenile courts and their probation departments too often turn to child welfare for assistance in funding needed placement and related treatment services for troubled youth who are "primarily delinquent" juveniles. PCSA funds are not unlimited and the costs associated with servicing what is often considered a "primarily delinquent" population can easily eat up a considerable portion of an agency's budget –

even if federal reimbursement (specifically, Title 4E and Medicaid) is forthcoming.

In contrast, juvenile court and probation officials often cite the need for child welfare to intervene earlier and more effectively in the lives of maltreated children, including the need to initiate formal dependency action. These officials view child welfare involvement as legitimate when their investigation uncovers a serious and/or, possibly, long-standing history of familial neglect (if not specific physical or sexual maltreatment).

The debate intensifies when the discussion focuses on the ability of the court to place a delinquent youth in the custody of the agency *solely* for placement purposes and not specifically because of any underlying neglect or abuse issues identified during court proceedings. While Ohio statute essentially permits the court to make such dispositional orders, PCSA officials were adamant that such placements are inappropriate.

An alternative encouraged by child welfare is for Ohio juvenile courts to enter into interagency agreements with the Ohio Department of Job and Family Services (ODJFS) to obtain direct Title IV-E reimbursement for a considerable portion of the placement and administrative costs incurred in servicing AFDC-eligible delinquent youth removed from their homes. From a PCSA perspective, this provides juvenile courts with an option to supplement placement budgets, as well as nurture development of a placement continuum that specifically meets the needs of their delinquent population.⁹

Three of the four juvenile courts visited – courts in Cuyahoga, Franklin and Lucas counties – have an interagency agreement and draw down Title IV-E funds for delinquency placements. Lucas County also has begun to draw down Title IV-E funds for administrative costs. However, only 19 of the state's 88 juvenile courts have entered into interagency agreements with ODJFS.¹⁰

While data are not readily available at either the county or state level, the number of youth with a history of sequential or concurrent involvement with the juvenile justice and child welfare systems is most likely considerable - particularly with respect to juveniles who penetrate deeper into the juvenile justice system.

The Arizona study found that dual jurisdiction youth, while only comprising a very small percentage of a juvenile court's informal diversion caseload (approximately 1%), comprised an increasingly larger percentage of a court's

deeper-end delinquency caseload. This includes youth on probation supervision status (7%), detained youth (11%), youth committed to the state's department of juvenile corrections (12%), and delinquent youth simultaneously placed by the juvenile court on probation and in a private group home or residential treatment facility (42%).¹¹ The latter percentage only reflects delinquent juveniles in private congregate care placements at least partially funded through the court's delinquency services fund.¹²

A similar trend appears evident in Ohio even though data are scarce. Data provided by the Lucas County Juvenile Court during the site visit revealed that approximately 45% of juvenile offenders on probation as of September 2004 had been previously or concurrently referred to the Lucas County Children Services (LCCS).¹³ Additionally, 89% of the 202 juveniles incarcerated by the Lucas County Juvenile Court in 2002 and 2003 had some type of contact with the county's PCSA.¹⁴ While the degree, nature and timing of LCCS contact were not determined, these data suggest a high degree of overlap across (or at minimum, sequential involvement in) the two systems – particularly for its deeper-end juvenile offenders.

This is not to suggest that almost half of all Lucas County juvenile probationers are concurrently involved with the county's child welfare system. Only a very small percentage of all juvenile probationers (3%) were in temporary or permanent LCCS custody at the time the dispositional investigation report was completed in advance of a disposition hearing on a delinquency matter.¹⁵ While there are instances in which the Lucas County Juvenile Court may place a delinquent youth in LCCS custody, site interviews indicate that such an order is not made until after the agency has completed its own investigation and dependency issues have been confirmed. Additionally, these youth are, almost invariably, also placed on probation.

The situation is far different in Franklin County. Interviews conducted in that county reveal that the court routinely places delinquent youth in PCSA custody specifically for placement purposes regardless of a youth's specific familial situation. At the end of the 2004 calendar year, Franklin County Children Services (FCCS) had custody of 286 juvenile probationers who were in court-ordered delinquency placements and – according to data provided by the court – 60% of these youth had been adjudicated on felony matters.¹⁶ These juveniles represent approximately 11% of all FCCS children in

paid placements and approximately 21% of all juveniles on probation as of the end of the 2004 calendar year.

Site interviews suggest that a substantial proportion of these 286 juveniles were in agency custody solely or primarily because of delinquency (or chronic unruly) issues and not because of any court-determined abuse, neglect or dependency issues. The Franklin County Juvenile Court has historically relied on the local public children services agency for placement of delinquent youth and has no specific (independent) budget to do otherwise.

Information Sharing — How Much and When?

Sharing of critical case information – particularly between the court and the local PCSA – was an issue in each of the counties visited. All parties interviewed recognized the need for the juvenile court to have in place procedures to promptly identify whether a youth referred on a delinquency charge (as well as his/her family) has had concurrent or prior contact with the local child welfare system. For the most part, information sharing between the two agencies was accomplished on an informal, case-by-case and as-needed basis. The exception being Lucas County (see below).

Recent federal legislation – passed in 2002 – amending the Juvenile Justice and Prevention Act – encourages (if not requires) juvenile courts to develop linkages with state and local child welfare systems to ensure that child welfare records are made available to the court on a delinquency matter and that this information be incorporated into the development of any treatment/supervision plans.

The critical questions become how best to accomplish this and at what point in the intake screening and/or court process does this occur? Best practice suggests that all juvenile courts have a method for promptly identifying a dual jurisdiction case as early as possible, preferably at the point of intake screening.

Sharing of PCSA information at intake screening, however, made some interviewees uncomfortable in that this requires the forwarding of child welfare information – including investigation and informal services information

Information Sharing Provisions Included in the Juvenile Justice and Delinquency Prevention Act of 2002

On November 2, 2002, amendments to the Juvenile Justice and Delinquency Prevention Act (JJDPA) were signed into law which require states to promote the sharing of child welfare information with the juvenile court on delinquency matters. This legislation reauthorizing JJDPA –first enacted in 1974 – acknowledges the linkages between child maltreatment and juvenile delinquency as well as broadens categories available to states to fund juvenile delinquency prevention and treatment interventions for juvenile offenders and at-risk youth who are victims of child abuse and neglect.*

Relevant sections of this Act that require states to utilize funding available through this legislation to (among other purpose areas) facilitate information sharing between juvenile courts and child welfare include:

“to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court” 42 U.S.C.. 5633 [Sec. 223.a.26]

and

“Establish polices and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders ...” 42 U.S.C.. 5633 [Sec. 223.a.27]

* For a more detailed discussion of the provisions reauthorizing JJDPA that address information sharing between the juvenile court and child welfare, please see Janet Wiig and John Tuell, *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration*, Child Welfare League of America, Washington D.C., 2004 (Appendix A).

– prior to any decision regarding whether to file a formal delinquency complaint and prior to a juvenile’s adjudication on any delinquency charges. Confidentiality concerns were raised by some that such information may prejudice an intake officer and/or prosecutor to formally file on a delinquency matter that might have otherwise been addressed through diversion options.

The Lucas County Juvenile Court requires a parent’s signature before requesting information on any PCSA investigation/informal involvement at intake. The court, however, routinely orders the agency to provide any information on prior PCSA involvement to the court *after* a juvenile’s adjudication on the delinquency matter. Wording contained in this court order was specifically developed in collaboration with Lucas County Children Services (LCCS) to protect the agency from any potential assertions of improper dissemination of confidential records. Specific language requested by the agency incorporated into this form order is as follows:

“Lucas County Children Services is ordered to release ALL records pertaining to this child in non-redacted form to the Juvenile Court Probation Department FORTHWITH, including information regarding any alleged victims and third parties who may be named in LCCS records.”¹⁷ (*emphasis in the original*)

Juvenile courts and local Ohio PCSAs are encouraged to examine the feasibility of establishing formal information sharing arrangements similar to that developed in Lucas County. Technology may also offer solutions to facilitate information sharing. At minimum, this should include basic information on the timing, nature and degree of prior or concurrent PCSA involvement. In Lucas County, the court has to request this information from LCCS on delinquency cases in which dual system involvement is anticipated. Court officers (e.g., detention, intake and probation officers) do not have ready access

to search the agency's database to identify prior or concurrent LCCS involvement.

Additionally, the juvenile court and child welfare systems should examine the feasibility and appropriateness of routinely sharing this information at the point of initial court contact. That is, at the point of intake screening of a delinquency referral by a court officer and/or prosecutor, either directly or through a PCSA liaison.

Juvenile recidivism research indicates that approximately 60% of juveniles referred to the court a first-time on a delinquency charge never come back.¹⁸ The 2004 Arizona Dual Jurisdiction Study, however, found that first-time offenders with a *history of formal dependency court involvement* were twice as likely to again be referred on a delinquency matter over the course of the study (62% versus 30%, respectively).¹⁹ These differences were maintained when controlling for gender. Dependent girls referred a first-time were just as likely to recidivate as dependent boys.²⁰

While the Arizona study only examines the correlation between prior formal court involvement on a dependency complaint and subsequent recidivism, the likelihood is strong that this linkage between maltreatment and recidivism would persist if the impact of *any* prior child welfare involvement (*formal or informal*) were examined.

The practical implications of such a finding are considerable. In essence, prior child welfare involvement could be utilized at court intake to readily identify a cohort of juveniles referred for a first-time with a clear propensity to recidivate. This is in sharp contrast to the overall population of first-time offenders who in the aggregate are not likely to ever come back. This would give the juvenile justice system – working collaboratively with child welfare – the ability to develop early and targeted interventions that address the unique risks and needs of this subset of juvenile offenders.

While the recent JJDPa amendments speak specifically to the sharing of child welfare information with the court on delinquency matters, the reverse also is true. PCSAs should be able to readily identify instances in which children under their care have been referred to the juvenile court on a delinquency matter. This should extend to delinquent children and their families not currently served by child welfare but previously known to the agency, as well as instances in which the juvenile

court suspects familial neglect or abuse of delinquent children with no prior PCSA contact or involvement.

PCSA officials also were particularly adamant regarding their need for early notification of possible involvement with delinquent children in instances in which the court is considering placing these children in local children services care specifically for placement purposes. This is consistent with Ohio statutes requiring the court to share information on delinquent youth with the agency.²¹

PCSAs need time to conduct an assessment of familial issues and service needs of the delinquent adolescent. Additionally, the agency, in all likelihood, needs time to determine and identify appropriate placement options. The more serious the offender and the more complex the youth's needs, the more difficult it is for the agency to develop a comprehensive case plan and find a suitable placement.

In varying degrees, each of the four counties visited appear to have addressed the need of keeping child welfare informed about delinquent youth the court is considering putting in the PCSA custody – particularly those with a specific order to place in private congregate care. Formal protocols were provided from two sites, Cuyahoga and Franklin County. However, interviews suggest that timely notification is still sometimes an issue in these counties and is most likely to arise in situations in which the agency is given custody at disposition of a “primarily delinquent” youth without prior notification.²²

Sharing of delinquency information with the PCSA and timely notification of intent to place do not seem to be major issues in Hamilton and Lucas Counties. Lucas County interviews consistently referenced informal protocols established between the court and the agency to ensure that the agency is given sufficient pre-dispositional notice to conduct its own family assessment and to confirm the existence of dependency/maltreatment issues to warrant children services involvement. In Lucas County, much of this coordination is directly attributable to the existence of a LCCS court liaison who is responsible for ensuring early interagency communication on potential dual system candidates and for facilitating investigations and assessments by child welfare.

Lucas County CPS Liaison to the Juvenile Court

In the late 1990s, the Lucas County Juvenile Court and Lucas County Children Services (LCCS) entered into an agreement for the agency to staff a court liaison position as part of an effort to increase collaboration and communication between the court and children services. The liaison position is considered part of the LCCS Investigation Department and is utilized as a first point of contact for the court to address issues regarding dual system youth – particularly those dual system youth currently in detention. Several different scenarios involving detained youth can result in liaison involvement:

- If detention staff are unable to release a detained youth (not involved with children services) due to a parent(s)' refusal or inability to pick up the youth, the liaison is contacted to help locate and encourage them to cooperate;
- In delinquency cases where there appears to also be possible abuse and/or neglect issues, the liaison may help facilitate and expedite a children services investigation while the youth remains in detention;
- The liaison helps to keep the court informed on the progress of investigations, assessments and casework surrounding dual system youth currently detained. The liaison also attends a weekly Juvenile Detention Population Control Meeting to facilitate child welfare referrals on newly detained cases and to update the committee on the status of cases in which child welfare is already (or has previously been asked) to get involved.

Prior to the creation of the LCCS court liaison position, Lucas County youth involved with child welfare would often remain in detention for extended periods because of delays in case assignment, cross-system information flow, initiation/completion of investigation and assessments, and identification of appropriate placement options. With the addition of this “point person,” the court is able to obtain the information needed to make informed decisions regarding dual system youth in detention, expeditiously order and facilitate child abuse/neglect investigations, and generally improve the level of communications with agency caseworkers. Additional duties of the CPS court liaison include:

- Facilitating/providing informal services to both the youth (mentoring) and the parent(s);
- Helping to identify a child proper custodian – parent, foster parent, relative, etc.;
- Attend resource staffing meetings on those youth considered for placement or current in a delinquency placement – especially in those instances in which LCCS involvement is being considered or the agency is already involved (e.g. sex offenders with sibling victims).
- Accessing court hearing information and ensuring that notification of delinquency hearings is provided to caseworkers. The liaison also attends hearings on designated cases in which children services is involved or agency involvement is contemplated.
- Provide information on prior children services history to detention and probation staff on designated cases.*

* A parent's signature or magistrate order is required to provide the court with information on prior LCCS assessments unless the youth has been adjudicated delinquent.

Collaborative Funding Arrangements

Interview discussions explored the degree to which collaborative funding arrangements were in place in the four counties to address the needs of delinquent/dependent youth and their families. In varying degree, each county was able to provide examples of pooled or “braided”²³ funding, de-categorized funding streams and/or agreements to share financial responsibility in specific instances. For the most part, however, these creative funding streams were available for only a limited number of multi-system youth and not specially designated for delinquent-dependent youth.

Availability of such creative funding arrangements is critical to fostering a sense of shared responsibility for these cases and in encouraging enhanced case coordination between the court, juvenile probation and child welfare. The Arizona study found that 90% of youth on probation and concurrently adjudicated dependent by the court spent at least some time in private congregate care placements, specifically group homes and residential treatment facilities. Many of these youth spent most of their time on dual supervision status in such placements.²⁴ While empirical data were not available, site interviews suggest a similar placement history profile for dual status youth in Ohio.

Both the court/juvenile probation and child welfare look to the other to help provide better behavioral and permanency outcomes and to pay for expensive placements and services these adolescents and their families typically need. In essence, the two systems attempt to “husband” their resources as best they can; tensions arise as each struggles to shift case management, placement and provision of services responsibilities to the other.

The court looks to child welfare because placement budgets are typically very limited. County child welfare budgets are considerably larger and often are supported by local tax levies.²⁵ PCSAs tend to be protective of their budgets, seeing their funds primarily dedicated to addressing the needs of children who are subject to serious maltreatment, not adolescents whose presenting problems are considered primarily of a delinquent nature. Additionally, these youth are often difficult to maintain

within the community and very expensive to sustain in group homes and residential treatment programs.

The strain is most apparent in Franklin County. The court historically has not been allocated a specific treatment budget (by the county) for delinquent youth in need of residential care and is reluctant to become a Title IV-E court – at least in part because of concerns regarding assuming legal and physical custody of delinquent youth in placement.²⁶ The Franklin County court has traditionally looked to the local PCSA to service delinquent youth ordered into placement by the court. Franklin County Children Services estimates that it currently spends up to \$18M annually to cover the placement costs of delinquent youth placed in their care – which as of January 2005 included 286 probation youth in paid placements through children services.

Pooled/braided, de-categorized and other types of shared funding arrangements are vital to fund the array of services needed to effectively intervene with these youth and their families, to help breakdown each system’s “silo” mentality, and to help foster a sense of shared responsibility for the dual status offender population. Since these kids are the responsibility of both systems, costs for intervening should be shared and the specific expertise and strengths of each system are essential to the equation. Expertise and strengths – that with increased coordination and collaboration – should result in better juvenile justice and permanency outcomes for these populations.

Hamilton County probably has the most extensive and long-standing program established through a pooled funding arrangement to service multi-system youth, a good portion of whom are considered both delinquent and dependent. Beginning in 1995, county commissioners contracted with a non-profit vendor to purchase, manage and evaluate managed care/wrap-around services for the county’s most difficult-to-serve, multi-system children and their families. These youth receive a wide range of services, ranging from community-based to residential and can remain in the program for extended periods of time based on their presenting needs and family issues. The average length of time services are provided is 18 to 24 months.

Since 1995, three vendors have sequentially been responsible for this program. The current vendor is Hamilton Choices.²⁷ Under a three-year, \$35M contractual agreement that began in November 2002,²⁸ Hamilton Choices manages a system of care for 260

children and adolescents. The program currently is funded through a partnership of five agencies, including the county's PCSA, Juvenile Court, Board of Mental Retardation and Developmental Disabilities, Community Mental Health Board, and Alcohol and Drug Addiction Services Board.

The Hamilton County program initially allocated a designated number of slots to each participating agency based on the number of children identified as multi-system served by each respective partner and the level of funding provided. In recent years, the program has been fully de-categorized. The slot system has been abandoned and program enrollment now is based on need, regardless of any particular agency involvement or combination of involvement.

Many of the cases served by Hamilton Choices are children and adolescents referred by the juvenile court and the local PCSA. Care coordinators are assigned to ten cases (children) each. While the focus is on the child, care coordinators also work closely with the family. Hamilton Choices – possibly more so than previous vendors – considers residential placement as a last resort and interviews indicate that the majority of children in their care are maintained in community-based placements including parents/relatives, foster care or group homes.

The care coordinators have primary responsibility for case management but are in regular contact with Juvenile Probation's Special Services Unit and PSCA caseworkers. Care coordinators attend all court hearings, both delinquency and dependency. Probation staff assigned to the Special Services Unit remain with the case as long as the child is involved with Hamilton Choices. If a youth is maintained on probation after release from the program, his/her case is assigned to a field probation officer.

Interviews indicate that Cuyahoga, Franklin and Lucas counties also have examples of pooled or targeted funding arrangements. These, however, appear more limited in nature and typically involve the local Family and Children's First Council to service multi-system youth, many of whom are concurrently or sequentially delinquent and dependent. (Please see page 12 for a description of two fledging Cuyahoga County federally-funded programs that provide valuable resources for delinquent-dependent adolescents.)

Interviews indicate that the juvenile court and the local PSCA do not typically share the cost of placement for

delinquent-dependent children except in instances where pooled funding arrangements can be accessed. While this may happen on a case-by-case basis, instances in which this occurs are uncommon if not rare. The exception is Lucas County. Representatives from both LCCS and the juvenile court cite a long-standing interagency informal arrangement that either entity can request that the cost of placement for a specific youth be evenly shared by the two entities. It appears that this agreement has been in place for 15-20 years. Interviews further suggest that this request for shared financial responsibility is routinely honored. While it is unclear how frequently such requests are made, it appears the existence of such an agreement – informal as it may be – has helped to improve communication between the two organizations and has contributed to an environment that encourages and nurtures court-agency collaboration.

Coordinated Case Planning and Supervision

Practice varies considerably across the four counties regarding the frequency of having both juvenile probation and child welfare involved simultaneously on a case. A youth was least likely to be placed on both probation supervision and placed in PCSA custody in Hamilton and Cuyahoga counties. The opposite appears true in Franklin and Lucas counties.

On the whole, with the exception of Lucas County, court/probation administrative and supervisory staff interviewed generally were not enamored by the thought of simultaneous juvenile probation and child welfare involvement. It was often viewed as not necessary (e.g., a duplication of services) or appropriate (e.g., lines of authority over case planning/management can easily become blurred). Court/probation staff typically felt that formal probation supervision was not needed for non-serious offenders actively involved with the local PSCA. If the child's offending behavior patterns became sufficiently chronic or serious, alternative delinquency placement options such as private delinquency placement (particularly for sex offenders), community-based corrections, or ultimately ODYS commitment would be explored. In most such instances, a delinquency disposition of this nature would essentially curtail or end PCSA involvement – at least until after release from placement.

Cuyahoga County Strengthening Communities for Youth (SCY) Program

In March 2002, Cuyahoga County obtained federal funding from the Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment (SAMHSA/CSAT) to initiate a program for detained youth with substance abuse problems. The Cuyahoga County Department of Justice Affairs (DJA) is the grantee agency with the county's Alcohol and Drug Addiction Services Board serving as the implementing agency. The award is for five years at \$750,000 per year (\$3.75M total).

The target population to be served by the Strengthening Communities for Youth (SCY) program are youth between the ages of 12 and 17 who are detained as a result of a new arrest. The SCY program focuses its efforts on facilitating early identification of substance abuse problems, improving access to services, and decreasing the time from identification to treatment.

Targeted youth are screened by a representative from the Cuyahoga County Public Defender's Office/Juvenile Division for substance abuse/dependency and referred to Catholic Charities Services for further assessment. The Public Defenders Office is assigned as counsel for all SCY youth (when appropriate) throughout the court process.

Cuyahoga County's Project Tapestry

Cuyahoga County was also recently awarded a second grant from the Substance Abuse and Mental Health Services Administration (SAMHSA) to develop a system of care for children and families who struggle with severe emotional disturbances (SED). The six-year grant includes \$9.5M in new federal funds and an \$8.67M local match.

Project Tapestry core values are to create a system of care that is child-centered/family focused, community-based and culturally competent. The goals of the project – among others – include serving 240 SED children (and their families) annually; increasing access to services as well as increasing the capacity of the local mental health system to care for SED children; infusing evidence-based practices into the children's mental health system; improved integration of mental health services with other system of care through the Family and Children First Council (FCFC); and integration of two different service delivery models.*

* That is, a service delivery model first funded by the Robert Wood Johnson Foundation (PEP/Connections) which relies on case managers and a strong wraparound philosophy to serve SED children, with a family to family service provision model (pioneered and funded by the Annie E. Casey Foundation) which organizes community collaboratives to support and improve outcomes of children in foster care.

In Lucas and Franklin counties, simultaneous involvement by both juvenile probation and child welfare appeared to be the norm. In Franklin County, this appeared to be the case specifically because of a request by the agency. In Lucas County, simultaneous probation and PCSA supervision was typically seen as appropriate and consistent with efforts by the court and child welfare to maintain and nurture a more collaborative working environment.

In every county, however, some interviewees suggested that more could be done to coordinate case planning and case management. In general, the author came away from the site visits in the four counties with the impression that each entity (probation and child welfare) was fairly autonomous in their case planning and case management. In essence, it appears these are often parallel activities with communication and coordination occurring only when case circumstances clearly dictate it occur.

PCSA interviewees were more receptive to joint casework and, in many respects, embraced it. While debating the appropriateness of assuming custody of delinquent adolescents, they expressed, at minimum, a need for assistance in ensuring that the behavioral issues exhibited by many of these delinquent-dependent youth did not spiral out of control and ultimately jeopardize their placements. Joint supervision and case management helps minimize these issues, allowing caseworkers to focus on treatment and permanency issues that lead to reunification, kinship care or community foster care as opposed to expensive congregate care placements (e.g., group home or residential treatment). In general, child welfare felt that more timely notification of potential involvement, improved initial assessments and coordinated case planning/supervision could result in a much larger portion of these youth being maintained within the community – at home or in more home-like environments. Probation involvement could clearly provide a much-needed support in this regard.

There is limited empirical evidence that innovative, collaborative case planning and supervision produce measurable benefits in joint supervision cases.²⁹ The following practices and programs seem most likely to produce positive effects in dual jurisdiction cases:

- *Child Welfare or Interagency Liaisons.* Formal agreements can address interagency coordination issues. In some locales, these agreements establish special liaison positions to help manage the complex issues presented by dual wards. Since the late 1990's, the Lucas County Juvenile Court and PCSA have had a PCSA liaison working closely with detention, intake, probation staff and the judiciary to improve the sharing of information and expediting the investigation and processing of juveniles that crossover both systems. (Please see page 9 for a description of how the Lucas County PCSA liaison improves communication and case coordination in dual system cases.)
- *Specialized case management and supervision units.* This can take a variety of forms, including units comprised of child welfare social workers and probation officers, specially qualified and trained child welfare and/or probation units, and probation units that have specially trained social workers assigned to assist officers

with these cases. None of the Ohio courts visited appeared to have established such units similar to those established in Maricopa County (Phoenix), AZ and in Ramsey County (St. Paul), MN. (Please see sidebar on page 14.)

- *Joint (child welfare and probation) case plans submitted to the court in advance of hearings.* Most often, child protection and probation officials submit separate case plans to the court at separate dependency and delinquency proceedings. In cases where the same judge handles both matters, it makes sense to have joint child welfare/probation case plans.³⁰
- *Special qualifications and/or training required for probation officers and child welfare caseworkers.* Those working with dually involved young people and their families should have an understanding of the dynamics of child development, the impact of child abuse and neglect, and both child welfare and juvenile justice goals. Juvenile probation officers and child welfare caseworkers assigned to these cases should be cross-trained and know how to access resources across systems.

Integrating Aftercare and Permanency Efforts

Much of the discussion in this bulletin has focused on who should be responsible and pay for delinquent-dependent adolescents who have substantial behavioral problems and reside in fragile home environments characterized by multiple familial problems. If system response patterns are consistent with those found in Arizona, the vast majority of these youth (up to 90%) end up spending a portion and often more than half of their adolescent years in group home, residential and/or correctional placements. Juvenile justice outcomes are generally poor – almost all are referred back to the court multiple times on new charges and/or violations of court orders.³¹ Similarly, many, if not most, of these dual system youth eventually age out of the dependency system and transition from care unprepared for adulthood and with

*Joint Case Planning and Specialized Units:
The Maricopa County Juvenile Court, Arizona, and the
Ramsey County Juvenile Court, Minnesota*

In Maricopa County, which includes the Phoenix metropolitan area, the challenges presented by dual system youth prompted both the probation department and the state child protection agency (CPS) to develop special units for at least a portion of these cases. The juvenile probation department's "Dual Ward Pilot Program" is comprised of specially trained probation officers who are responsible for the supervision and monitoring of dually adjudicated youth residing in out of home placements funded by CPS. While juveniles on standard probation may change probation officers when they change residences, probationers in the Dual Ward Pilot Program retain their specially assigned probation officers, regardless of placement changes, through probation duration.*

Special training is provided to the program's probation officers through CPS, community mental health agencies, the juvenile court, and the probation department. The Dual Ward Pilot Program's probation officers work very closely with counterparts in the CPS "Dually Adjudicated Youth" (DAY) unit. The DAY unit is comprised of specially trained caseworkers who provide case management and supervision of dependent/delinquent youth. DAY unit caseworkers maintain regular communication with the Dual Ward Pilot Program staff to maximize cooperation and avoid duplication. Joint (CPS/probation) case staffings regularly are held in both agencies with active participation from Guardians Ad Litem, therapists, school representatives, parents or guardians, and other key parties, including dually adjudicated juveniles themselves when appropriate. Although joint probation/CPS case plans are not prepared, both agencies report having a better understanding of each other's roles through cross-training, regular communication, and interagency staffings.

In Ramsey County which includes the St. Paul, Minnesota region, judges who handle delinquency matters have the option to assign juveniles to probation supervision in one of two separate departments: the Human Services Delinquency Unit or Community Corrections. Judges may refer cases to the Human Services Delinquency Unit by following established eligibility criteria. These criteria include dual jurisdiction, indications of serious emotional problems, and early onset of delinquent activity.** Juveniles assigned to this unit have both a Human Services probation officer and a child protection caseworker. These two-person teams are housed in the same location. Ramsey County officials feel the best way to manage dual jurisdiction cases is to provide them with team members who have been specially trained to address different aspects (i.e., child welfare and delinquency) of a case. By co-locating probation officers and caseworkers, service coordination and case planning improves, resulting in decreased gaps in service delivery.

* The Maricopa County Juvenile Probation Department assigns standard probation officers to specific geographic (zip code) regions of the county. However, because dually adjudicated youth tend to change placements more often than other probationers, probation officers assigned to the Dual Ward Pilot Program stay with their cases regardless of shifts in residence. This should result in more consistent case management and supervision of these challenging cases.

** Dual jurisdiction juveniles who commit more serious offenses are assigned to Community Corrections for more intensive supervision.

little or no semblance of an adequate permanent home environment.³²

Given the generally poor results many jurisdictions – nationally and in Ohio – appear to have with dual system/crossover youth, an essential component of cross-system case coordination should focus on integrating aftercare and permanency efforts. Site interviews suggest that each of the four jurisdictions could probably do more in

this area – in some instances considerably more. The degree of case coordination that occurs generally seems to be contingent on the predilections and priorities of individual probation officers and child welfare caseworkers. Institutional supports (e.g., formal protocols, cross training, specialization, information sharing, etc.) that foster/require increased case communication and case coordination appear sporadic.

Time Running Out: Teens in Foster Care — Selected Highlights from Study

In November 2003, Madelyn Freundlich (Policy Director for Children Rights)* completed a study focusing on the experiences and outcomes for youth in congregate care in the New York City foster care system. The study examined issues that impact adolescents – ages 12 years and older – residing in group homes, residential treatment centers, maternity facilities, and mother/child facilities in New York City’s five boroughs. Interviews were conducted with young adults and a wide variety professional stakeholders. Among the key findings from the interviews with the were the following:

Placements for Youth in Congregate Care

- In general, congregate care does not work well for youth as it does not provide a “family-like” setting and fails to meet the service and permanency needs of youth.
- The quality of current congregate care settings for youth is extremely variable with facilities being, in the words of one respondent, “a mixed bag.”

Services for Youth in Congregate Care

- Quality services for youth in congregate care generally are not readily available.
- There is a lack of focus on education for youth in congregate care. In particular, there are problems with the inappropriate use of on-site educational programs for youth in Residential Treatment Centers and difficulties ensuring youth’s enrollment in and attendance at public schools when they are placed in group homes.
- Mental health services are seriously lacking for youth in foster care, in general, and youth in community-based group homes, in particular.

The Safety of Youth in Congregate Care

- Youth often are not personally safe in congregate care settings as a result of peer-on-peer violence and gang-related activity.

Permanency for Youth in Congregate Care

- Overall, the quality of permanency planning is poor for youth in congregate care.
- Reunification of youth with their parents is undermined by the failure of congregate care facilities to work closely with families and encourage parent-youth visits. At least one key factor working against reunification is that youth often are placed at geographic distances from their families.
- Inadequate attention is given to identifying extended family members and other caring adults who can be permanent resources for youth in congregate care.

Youth Involvement

- Youth are not adequately involved in planning and decision-making on matters that directly affect them.
- Youth generally are not given opportunities to participate at court hearings regarding their cases.

Transitioning from Care

- Youth are not being adequately prepared to transition from foster care to living independently as adults.
- Housing is particularly problematic for youth who leave care with a goal of independent living.
- Youth who age out of foster care at age of 18 (or older in some cases) are educationally disadvantaged and that limitation has a significant impact on their success as adults.

* Children’s Rights is a national, non-profit organization promoting and protecting the rights of abused and neglected children in failing foster care systems, using policy analysis, public education and the power of the courts. For more information, please see their website at: www.childrensrights.org. The report can be downloaded at: http://www.childrensrights.org/PDF/time_running_out.pdf.

Aftercare/reintegration planning should begin as the youth enters into placement. Efforts to find a permanent home for the youth upon release also should be a salient concern from the onset. Working to address familial problems that contributed to the youth's delinquent behavioral patterns is integral to these efforts. The Arizona Dual Jurisdiction Study found that youth jointly on probation and in child welfare custody more often than not came from families in which parental alcohol/substance abuse, domestic violence, housing/financial problems, parental mental health issues, and/or a history of parental incarceration were prevalent.³³

It is critical to have juvenile probation involved in the development of reintegration plans and implementation as well as working with placement staff to ensure a youth's behavior is appropriately maintained while in the facility. However, child welfare case workers are often much better suited to develop and implement a comprehensive plan that addresses parental alcohol/substance abuse, domestic violence, parental mental health issues, housing, parental incarceration, etc. – issues that – in all likelihood – contributed to their child's delinquent behaviors. Issues that will also jeopardize/sabotage the possibility of successful reintegration. Furthermore, if parental reunification is not a realistic alternative, identifying and working with relatives (or specially-trained foster parents) as viable permanency alternatives also is something child welfare case workers are better suited to accomplish.

In these instances, integrating aftercare/reintegration makes considerable sense. To only have either juvenile probation or child welfare involved at different stages or to have them sequentially involved depending on which issues seem most immediate is probably too little/too late in most instances. It is also not a very good way to encourage and nurture a sense of “shared responsibility” for these cases.

Interviews further revealed that coordinated juvenile justice and child welfare intervention are probably most glaringly absent in cases involving the juvenile courts most serious offender population – youth committed to ODYS. Both, juvenile court/probation and child welfare interviews reveal that child welfare involvement typically ends at the time a youth is ordered into ODYS custody. The youth's case may be re-opened upon release/parole but this is generally not the case unless extenuating circumstances exist. For one juvenile court administrator, this was considered one of the court's most pressing concerns – concerns that jurisdictional boundaries between

probation and parole currently limit the ability of the court to address.

The Juvenile Branch of the Franklin County Domestic Relations Court has initiated a program (ACES – AfterCare Expedites Success) to begin to bridge this gap. Using Reclaim Ohio funding, the court has collaborated with ODYS to develop a comprehensive aftercare program for youth identified as eligible for early release from a state secure institution. These youth are dually supervised by ODYS parole and ACES case managers employed by the court. Parental support and participation are essential and expected components of the ACES program. Child welfare currently does not appear to have an integral role in this program. However, an expansion of the agency's role in supporting parental involvement (and possibly kinship care involvement) may be worth exploring.

Fostering Dual System Collaboration

Dual jurisdiction cases present unique challenges to the juvenile court, juvenile probation, child welfare, and the behavioral/mental health communities. Juveniles experiencing court involvement on both delinquency and dependency matters typically exhibit a myriad of familial, emotional and educational deficits in addition to what often quickly escalates into chronic delinquent and/or unruly behavior. Because of their complexity, these cases drain scarce resources from child welfare agencies, behavioral health systems of care, juvenile probation departments, and the courts themselves – often without anything much to show for these efforts other than continuing law-violations, related behavioral problems, frequent placements changes, and failed attempts at achieving permanency.

Site visits to four of Ohio's largest counties indicate that the degree of communication, coordination and collaboration between the juvenile court/probation and child welfare varies considerably. Lucas and Hamilton counties have extended histories of interagency communications and collaboration – at least some of this due to model system improvements these jurisdictions have implemented on dependency matters.¹ The history of interagency communication and collaboration in Cuyahoga and Franklin counties appears

Franklin County's ACES Program

ACES (AfterCare Expedites Success) is a collaborative effort of the Ohio Department of Youth Services (ODYS) and the Juvenile Branch of the Franklin County Domestic Relations Court. Using Reclaim Ohio funds, the ACES program was initiated in October 2002. Its goal is to provide a comprehensive aftercare program and services for youth identified for early release from ODYS.

ACES targets youth who have had minimal or limited services (i.e., educational and vocational coaching, anger management, and drug/alcohol treatment) provided before commitment. Appropriate candidates must also have supportive and willing parents and/or guardians, have the ability to function in the community, show accountability and remorse for their offense, and demonstrated a positive adjustment within the institution.*

Once appropriate youth are identified and release is granted, a DYS Unified Case Plan is developed with the youth's family. The ACES case manager is responsible for facilitating linkages with the identified community-based services including court-operated programming and electronic monitoring when indicated.

During the first phase of aftercare, the case manager facilitates a weekly team meeting to ensure compliance with the service plan and to make any necessary adjustments. Participating in these weekly team meetings are ODYS parole officers, ACES staff, youth and family members as well as service/program providers. The timing of team meetings are slowly tapered consistent with the youth's compliance with service plan objectives. Additionally, ACES staff maintain daily contact with the youth.

* Youth are considered for the program if committed for a sex-related offense or if they have previously been revoked from parole.

more sporadic. Interviews with court and agency administrators in these counties acknowledge the need to establish regular forums to discuss dual system coordination and other issues related to court-agency collaboration and that preliminary discussions in this regard have been initiated.

In all four counties, juvenile court/probation officials, child welfare administrators, service providers and attorneys interviewed generally acknowledged some tension over how best to proceed in addressing the needs of this special population of delinquent-dependent offenders. These tensions appear as the court and child welfare struggle to develop and put into practice protocols that reflect a sense of "shared responsibility" for these dual system adolescents and their families. Much of this tension is reflective of the overall lack of resources and funding to serve this special population as well as the need to better clarify the roles and responsibilities of juvenile probation and child welfare in the supervision, case management and provision of services in these cases.

In many respects, the juvenile court can (and should be) the catalyst in bringing key stakeholders together and collectively identifying and developing strategies for improving cross-system communication and information sharing. These include strategies that focus on early identification, coordinated case planning/case management, and creative funding arrangements as well as timely and targeted provision of services to dual jurisdiction wards. Additionally, the court can lead by example and develop procedures to ensure consistent judicial oversight in these matters much in the way juvenile courts – nationally and in Ohio – have spearheaded court reform efforts in child abuse and neglect matters generally.³⁵

Judges are uniquely positioned to prompt key stakeholders to attend planning meetings, and can keep group members focused on relevant objectives and tasks. Evidence of the benefits of judicial leadership in spearheading collaborative efforts were readily apparent in both Hamilton and Lucas counties. A number of these efforts have been discussed/highlighted in this bulletin. The

Hamilton County Juvenile Court was at the forefront of efforts to develop what probably is one of the most extensive county-based pooled funding arrangements in place in the nation to service multi-system youth – substantial portion of whom are both delinquent and dependent. Ongoing efforts by the Lucas County Juvenile Court at expanding communication and collaboration with the local child welfare agency has resulted in clearly delineated protocols for information sharing and in the creation of a PCSA court liaison position who helps facilitate and expedite agency involvement on potential dual system youth – particularly youth detained at the court’s detention center. That court’s weekly juvenile detention population control meetings (described on page 19) are another example of how active judicial and court leadership can enhance the juvenile justice and child welfare systems ability to expeditiously and collaboratively respond to the needs of dual system adolescents.

Concluding Remarks

Dual system youth present unique challenges for juvenile courts and their child welfare colleagues and often heighten the conflicts between the two organizations while draining scarce resources from both. Many of these youth, particularly children who have experienced patterns of abuse and/or neglect, and children who exhibit early onset of delinquency, are at very high risk of serious problems as they move through adolescence to adulthood. In some jurisdictions, the challenges presented by dual involvement seem overwhelming, but it is important to remember that preventing even small numbers of these cases from future problems will reap important benefits.

Anecdotal observation indicates that open communication between stakeholders is the key to improved outcomes for dual jurisdiction youth. Dialogue that moves beyond debate of individual case responsibility to systemic planning can result in changes that are felt on a day-to-day basis by probation officers and PCSA caseworkers.

The effort of gradual consensus building is fragile and one that easily can get compromised by the heavy work demands, lack of funding and resources, few specialized placements and related services, and general difficulties that staff encounter in turning around the lives of these

juveniles. Judicial and child welfare leaders who want to focus on improving outcomes for this special population, however, will find the process rewarding. The difficulties should not deter them from finding new ways to partner on behalf of this special population of juvenile offenders, their families and the communities in which they live.

ENDNOTES

- ¹ For an excellent summary of this literature, please see J. Wiig, C.S. Widom, & J.A. Tuell. *Understanding Child Maltreatment & Delinquency: From Research to Effective Program, Practice, and Systemic Solutions*. Child Welfare League of America, 2003.
- ² Please also see Joseph P. Ryan and Mark F. Testa, “Child Maltreatment and Juvenile Delinquency: Investigating the Role of Placement and Placement Instability,” in **Children and Youth Services Review**, vol. 27 (2005), pp. 227-249. Please also see Gregory J. Halemba et al., *Arizona Dual Jurisdiction Study: Final Report*, National Center for Juvenile Justice, Pittsburgh, PA (2004).
- ³ For purposes of this bulletin, dependent youth are considered youth who have been adjudicated by the court as dependent, neglected or abused.
- ⁴ Please see Janet Wiig and John Tuell, *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration*, Child Welfare League of America, Washington D.C., 2004 (pp. xi-xii).
- ⁵ The National Center for Juvenile Justice is the research division of the National Council of Juvenile and Family Court Judges.
- ⁶ Please see Gene Siegel and Rachael Lord. *When Systems Collide: Improving Court Practices and Programs in Dual Jurisdiction Cases*. Technical Assistance to the Juvenile Court: Special Project Bulletin (Summer 2004), NCJJ, Pittsburgh, PA. This paper was developed by NCJJ staff through an annual OJJDP Technical Assistance to the Juvenile Court grant and completed in conjunction with work on this current project. The paper can be accessed on-line at: <http://ncjj.servehttp.com/NCJJWebsite/pdf/dualjurisdiction.pdf> and has been reprinted in the Spring 2005 edition of the **Juvenile and Family Court Journal** (vol. 56, #2, pp. 39-59), National Council of Juvenile and Family Court Judges, Reno, NV. Also, please see Gregory J. Halemba et al., *Arizona Dual Jurisdiction Study: Final Report*, National Center for Juvenile Justice, Pittsburgh, PA (2004). This report can be accessed on-line via the Arizona Supreme Court, Administrative Office of the Courts website at: http://www.supreme.state.az.us/dcsd/docs/azdual_juri.pdf.
- ⁷ NCJJ reviewed the following nationally recognized references to construct these categories. These included but were not limited to the *Desktop Guide to Good Juvenile Probation Practice*, the *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* (and the

Lucas County Juvenile Detention Population Control Committee

On a weekly basis, the Lucas County Juvenile Court convenes its Juvenile Detention Population Control Committee to review the circumstances surrounding why is each youth remains detained at the court's juvenile detention center. The committee meets every Tuesday over the noon hour with a hot lunch provided to all participants by juvenile detention staff.*

Committee members include:

- both juvenile court judges,
- a retired judge who assists with the delinquency docket,
- the court's chief magistrate and a delinquency magistrate,
- the court administrator and assistant administrator,
- the detention center administrator,
- the chief juvenile prosecutor,
- the PCSA court liaison,
- the court's juvenile probation administrator and chief psychologist,
- the Youth Treatment Center's administrator and a representative from the local ODYS office, and
- a representative of a local mental health provider.

The purpose of these weekly meetings is to ensure that juveniles only remain in detention for appropriate reasons. Circumstances surrounding each youth's continuing confinement and anticipated release dates are reviewed as well as risk scores, potential detention alternatives and dispositional options. Instances in which assessments are needed or pending are highlighted and progress in this regard are discussed. These case reviews are specifically focused on ensuring that all activities needed for the court to make a timely decision on detention are addressed prior to the youth's next court date or detention anticipated release date.

A number of cases are typically referred to the local PCSA – including those instances in which the agency is already involved, instances in which agency involvement may be warranted because of serious familial concerns, and instances in which the PCSA court liaison is asked to intervene with parents who fail to appear at court hearings or refuse to take custody of their child upon detention release. At the meeting attended during the site visit, local child welfare involvement or follow-up was noted on approximately a quarter of the cases reviewed.**

* Providing food – especially a well-prepared warm meal – can go a long way in ensuring regular attendance/participation and can set the stage for forging strong and lasting collaborative relationships.

** This was probably a conservative estimate in that the author was unfamiliar with the process and, in all likelihood, did not note all instances of children services involvement.

companion *Adoption and Permanency Guidelines*), the *Child Welfare League of America's Standards of Excellence for Service for Abused or Neglected Children and Their Families*, the National Association of Social Workers *Code of Ethics*, as well as practices cited in the research literature (limited as it might be) that suggest certain practices may contribute to measurable benefits in dual jurisdiction cases (a complete listing of all sources reviewed appears at the

end of the bulletin).

⁸ O.R.S. Section 2151.355(A)1 states that if a child is adjudicated delinquent, the court may make any dispositional order authorized under Section 2151.353. This latter section provides for dispositional options available to the court for children adjudicated as abused, neglected or dependent.

- ⁹ Local PCSA officials are typically very supportive of these interagency cooperative agreements between the juvenile court and ODJFS. The agreements have the potential for relieving the local agencies of placement responsibility for delinquent and unruly youth – a child population with service and placement needs that are often different from those of maltreated children. The agreements can also diffuse tension between the juvenile court and the local child welfare agency regarding specific placement decisions. Federal and local statutes limit the ability of the court to direct the agency to place a child in a specific placement if legal custody is transferred to the latter. Please see Patrick Griffin and Gregory Halemba, “Federal Placement Assistance Funding for Delinquency Services,” *Children Families and the Courts: Ohio Bulletin* (Winter 2003).
- ¹⁰ As of June 17, 2005. One of the 19 jurisdictions is actually a multi-county interagency agreement in which multiple juvenile courts have collectively entered into a joint interagency agreement with ODJFS
- ¹¹ Data is based on youth with delinquent court activity in FY2002 (July 1, 2001 through June 30, 2002). Please see Chapter 2 of Gregory J. Halemba et al., *Arizona Dual Jurisdiction Study: Final Report*, National Center for Juvenile Justice, Pittsburgh, PA (2004).
- ¹² Dual jurisdiction youth probably comprise a considerably higher percentages of the on probation population in private placements if those cases funded solely by CPS are included – probably well upwards of 50%.
- ¹³ That is, 287 of the 620 active juvenile probationers in Lucas County for whom a Disposition Investigation Report (DIR) was completed. As part of this dispositional investigation, juvenile probation officers are required to determine whether the youth has ever been referred to the county’s children Services agency. Critical data from the DIR – including prior LCCS contact – are tracked in the juvenile court’s automated case management system database
- ¹⁴ Please see *Toledo Blade* article published on Tuesday, June 8, 2004 entitled “Study: Youthful offenders are often the victims of abuse.” The article indicates data provided by the court and LCCS reveal that 180 of the 202 juveniles incarcerated for more than six months in 2002-03 were known to the agency. These 202 youth are juveniles the court typically has committed to ODYS or to the Lucas County Youth Treatment Center (an ODYS-funded facility).
- ¹⁵ Dispositional investigation reports are completed by juvenile probation officers in Lucas County in advance of a dispositional hearing on a serious delinquency matter that may result in a juvenile being placed on probation supervision, court-ordered into a private delinquency placement, the Lucas County Youth Treatment Center, or committed to Ohio Department of youth Services (ODYS).
- ¹⁶ The vast majority – 77% (220) of these 286 youth were in private congregate care placements. The remaining 24% (66) were in foster care homes.
- ¹⁷ Specific language included in this order was provided by the Chief Magistrate of the Lucas County Juvenile Court.
- ¹⁸ For example, a study conducted by NCJJ in 1988 examining the court careers of approximately 70,000 juvenile processed by juvenile courts in Maricopa County (Phoenix), Arizona and in the State of Utah found that 59% of juveniles referred to the juvenile court never returned. Please see Howard Snyder, *Court Careers of Juvenile Offenders*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1988, pp. 22-35. The 41% recidivism rate (59% not recidivating) for juveniles referred to the court for the first-time does not differentiate between delinquent and status offenses.
- ¹⁹ Except for 16 and 17 year olds who might have reached the age of majority (age 18) before the end of the study period, the amount of time juveniles referred for a first-time had to recidivate was between one and two years depending at which point the youth was first referred to the court on a delinquency offense.
- ²⁰ This marks a dramatic departure from the 1988 NCJJ court careers study which found that males were considerably more likely to recidivate than females. Snyder found that “46% of all male careers contained more than one court referral compared to 29% of all female careers.” Please see Howard Snyder, *Court Careers of Juvenile Offenders*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1988, pp. 22.
- ²¹ Ohio statutes – specifically O.R.S. 2152.72 (D20)–require juvenile courts to provide PCSAs with information on the offense and social history of most juveniles adjudicated delinquent as well as any psychiatric or psychological examinations conducted.
- ²² In Franklin County, such occurrences are referred to as “blind orders” by PCSA staff and administrators. While the frequency of such occurrences has been reduced, interview data suggest additional discussion/coordination appears to be needed to refine the process and ensure more uniform adherence to early notification protocols.
- ²³ The director of the Public Children Services Association of Ohio (PCSAO) prefers to use the term “braided” funding rather than pooled funding to reflect the fiduciary requirement of each contributing partner to track how each agency’s funds are utilized.
- ²⁴ Please see Gregory J. Halemba et al., *Arizona Dual Jurisdiction Study: Final Report*, National Center for Juvenile Justice, Pittsburgh, PA (2004), pp. 46-49. Almost all (90%) dual jurisdiction youth – that is youth on probation and adjudicated dependent – spent at least some time in a group home or residential treatment program. Overall these youth spent almost half of their time in such placements (46%). This dwarfed the average amount of time dual jurisdiction youth spent living with

parents (12%) or in other more-home like environments such as relative care (13%) and foster homes (4%). The study tracked the placement histories of these youth for an average of two and half years (30 months).

- ²⁵ Of Ohio's 88 counties, almost half (42) maintained a children services levy in 2003. Please see Public Children Services Association of Ohio, *PCSAO Factbook 2005-2006 (7th Edition)*, page 19.
- ²⁶ The other three counties visited were Title IV-E courts and, in addition each had their own placement budgets. These budgets, however, have generally been substantially reduced in recent years. In recent months, the Franklin County Family Court has approached ODJFS to examine the feasibility of becoming a title IV-E agent for delinquency placements.
- ²⁷ Hamilton Choices is a subsidiary of Choices, Inc. located in Indianapolis (Marion County), Indiana. Choices was incorporated in 1997 to coordinate the Dawn Project, a collaborative effort among child welfare, special education, juvenile justice and local mental health leaders to better serve youth with emotional disturbances and their families in Marion County. Since that time Choices has expanded to operate five other programs including integrated systems of care program in Hamilton County. More information about these programs, including the Hamilton County program, can be obtained the Choices website: www.kidwrap.org and the Hamilton Choices website: www.hamiltonchoices.org.
- ²⁸ Per Hamilton Choices website, this contract has been recently renewed.
- ²⁹ For example, see J. K. Irvine, J. Krysik, C. Risley-Curtiss, and W. Johnson. *Interagency Case Management Project: Final Impact and Cost Study Report*. (May, 2001). Prepared for the Maricopa County (Phoenix, Arizona) Interagency Case Management Project Evaluation Oversight Committee. This study found significant cost savings related to reductions in lengths of stays in out of home placements for multi-system youth placed in an interagency case management project (ICMP) versus a comparison group of youth who were not in the ICMP. The study also found no significant differences in subsequent delinquent referrals despite the fact that ICMP cases had more extensive delinquent histories.
- ³⁰ In Coconino County, Arizona, a large geographic area serving Flagstaff and other northern Arizona communities with a population exceeding 120,000, the juvenile court judge who handles the bulk of dependency and delinquency matters frequently issues court orders that require probation officers and CPS caseworkers to prepare joint court reports in dual jurisdiction matters. The judge also requires both to attend all post-adjudication hearings. Juvenile probation officers and CPS caseworkers report this cooperative approach produces more comprehensive case plans that address child safety, juvenile accountability, and community protection concerns. Please see Gene Siegel and Rachael Lord. *When Systems Collide: Improving Court Practices and Programs in Dual Jurisdiction Cases*. Technical Assistance to the Juvenile Court: Special Project Bulletin (Summer 2004), NCJJ, Pittsburgh, PA. (pg. 9)
- ³¹ More than two-thirds of dual system youth (on probation in CPS legal custody) included in the Arizona dual Jurisdiction Study had probation outcomes that were, in varying degrees, unsuccessful or problematic. That is, during the period tracked (typically averaging two or more years) were committed to juvenile corrections or had charges pending in the adult system (24%), had been continued/placed a second time on probation because of new charges or had new charges pending in juvenile court (27%), or were released from probation on their 18th birthday (15%). Even those youth released from probation typically were referred to the court on additional delinquency, status or probation violation offenses. Please see Gregory J. Halemba et al., *Arizona Dual Jurisdiction Study: Final Report*, National Center for Juvenile Justice, Pittsburgh, PA (2004), pp. 49-51.
- ³² Please see Gregory J. Halemba et al., *Arizona Dual Jurisdiction Study: Final Report*, National Center for Juvenile Justice, Pittsburgh, PA (2004), page 52.
- ³³ Please see Gregory J. Halemba et al., *Arizona Dual Jurisdiction Study: Final Report*, National Center for Juvenile Justice, Pittsburgh, PA (2004), pp. 40-42. Also, see Rick Wiebush, "Profiles of Youth in Secure Care and Aftercare" in Robert Decomo and Rick Wiebush (eds.), *Graduated Sanctions for Juvenile Offenders: A Program model and Planning Guide – Disposition Court Hearing to Case Closure*, National Council of Juvenile and Family Court Judges, Juvenile Sanctions Center, Reno, NV(2005), pp. 6 – 16.
- ³⁴ Both courts participate in the National Council of Juvenile and Family Court Judges' (NCJFCJ) Child Victims Act Model Courts Project. Juvenile courts participating in this national demonstration effort (25 in all) each express a commitment to work collaboratively with system stakeholders – particularly child welfare – to improve how child neglect and abuse cases are handled in their jurisdictions. Best practice principles described in the two NCJFCJ documents – *The Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* and a companion document – *The Adoption and Permanency Guidelines* published in 1995 and 2000, respectively serve as the basis for system change efforts undertaken in these participating jurisdictions.
- ³⁵ The national Child Victims Act Model Courts Project referenced in the previous endnote, has demonstrated the benefits of having judges facilitate collaborative planning efforts. Each model court site has a committee or workgroup, facilitated by the presiding judge, or another assigned judge, that advises the court on needed reforms in abuse and neglect matters. Without this judicial leadership, significant changes in dependency practices would not be easy to achieve.

County Profiles of Children in PCSA Custody (as of January 1, 2005)

Source: Ohio Department of Job and Family Services

County (population of 250,000 or more)	Total Children in Custody: TC, PC, APPLA (as of 1/1/05)		Total % (#) Delinquent Youth in Custody		County (population of 50,000 - 100,000 continued)	Total Children in Custody: TC, PC, APPLA (as of 1/1/05)		Total % (#) Delinquent Youth in Custody	
Butler	352	4%	(13)		Sandusky	42	0%	(0)	
Cuyahoga	3413	1%	(42)		Scioto	100	21%	(21)	
Franklin	3174	8%	(245)		Seneca	82	5%	(4)	
Hamilton	1341	3%	(34)		Tuscarawas	123	13%	(16)	
Lorain	106	15%	(16)		Washington	28	17%	(5)	
Lucas	742	0%	(2)		County (population of less than 50,000)				
Mahoning	229	2%	(4)		Adams	40	0%	(0)	
Montgomery	1006	2%	(20)		Auglaize	12	0%	(0)	
Stark	843	4%	(33)		Brown	72	8%	(6)	
Summit	1194	2%	(20)		Carroll	18	0%	(0)	
County (population of 100,000 - 250,000)					Champaign	33	3%	(1)	
Allen	131	3%	(4)		Clinton	48	19%	(9)	
Ashtabula	123	1%	(2)		Coshocton	23	9%	(2)	
Clark	141	4%	(5)		Crawford	50	14%	(7)	
Clermont	315	11%	(36)		Defiance	14	0%	(0)	
Columbiana	98	2%	(2)		Fayette	39	0%	(0)	
Delaware	65	10%	(7)		Fulton	29	10%	(3)	
Fairfield	182	11%	(20)		Gallia	24	8%	(2)	
Greene	120	4%	(5)		Guernsey	26	4%	(1)	
Lake	100	15%	(15)		Hardin	49	12%	(6)	
Licking	305	2%	(6)		Harrison	7	0%	(0)	
Medina	39	2%	(1)		Henry	25	20%	(5)	
Miami	101	10%	(10)		Highland	66	8%	(5)	
Portage	152	3%	(5)		Hocking	48	19%	(9)	
Richland	101	6%	(6)		Holmes	10	0%	(0)	
Trumbull	225	1%	(2)		Jackson	25	12%	(3)	
Warren	133	5%	(7)		Logan	27	0%	(0)	
Wayne	146	1%	(2)		Madison	29	0%	(0)	
Wood	66	6%	(4)		Meigs	10	0%	(0)	
County (population of 50,000 - 100,000)					Mercer	14	14%	(2)	
Ashland	52	17%	(9)		Monroe	11	36%	(4)	
Athens	115	7%	(8)		Morgan	19	16%	(3)	
Belmont	46	4%	(2)		Morrow	11	9%	(1)	
Darke	50	12%	(6)		Noble	6	0%	(0)	
Erie	116	8%	(9)		Ottawa	9	44%	(4)	
Geauga	37	8%	(3)		Paulding	19	5%	(1)	
Hancock	38	3%	(1)		Perry	50	2%	(1)	
Huron	59	13%	(8)		Pike	66	2%	(1)	
Jefferson	100	1%	(1)		Preble	67	24%	(16)	
Knox	20	15%	(3)		Putnam	8	0%	(0)	
Lawrence	88	11%	(10)		Shelby	28	0%	(0)	
Marion	35	0%	(0)		Union	41	5%	(2)	
Muskingum	105	9%	(9)		VanWert	5	0%	(0)	
Pickaway	28	0%	(0)		Vinton	46	0%	(0)	
Ross	105	10%	(11)		Williams	31	0%	(0)	
					Wyandot	16	13%	(2)	

UPDATE: Parental Rights Brochures

Having a child who is the subject of a child protection investigation can be a frightening experience for families, characterized by feelings of helplessness and confusion. When parents do not clearly understand the events that are transpiring, anxiety and distrust can be exacerbated. In addition, the *Subcommittee on Responding to Child Abuse and Neglect* (Subcommittee) believes that uninformed parents are less likely to be engaged in all facets of the process, a factor that impedes successful resolution for both children and the family. As with any action, a knowledgeable advocate has a more effective voice.

Increasing a family's full understanding of the child protection system and its many components is an ongoing responsibility of the child welfare worker as a part of the casework process. To complement –not replace— this activity, the Subcommittee asked the American Bar Association's Center on Children and the Law (ABA) to develop a document that could be used to notify parents involved in a report of child abuse or neglect of both the rights of parents and the responsibilities of the public children services agency. Working with members of the Subcommittee, the ABA has developed two distinct pamphlets which set out the rights and obligations of both parties. The first document is entitled "Children Services – Our Duty to Protect Children...and Respect Families" and discusses the investigative process to the point of disposition. The companion brochure is entitled "When My Child Has Been Put in Foster Care – What Happens Next?" and examines the process initiated when a child is removed from the home. The objectives of both documents are to emphasize to parents the importance of understanding all that is transpiring and to highlight specific areas of interest. Neither brochure is intended to replace the duties of either the caseworker or legal counsel or to provide in-depth discussion of the topics.

The brochures have undergone several revisions to incorporate comments received from the various disciplines represented on the committee. The approved documents are expected to be presented to the *Advisory Committee on Children, Families and the Court* in October 2005 along with a plan for distribution and intended use.

UPDATE: Subcommittee on Responding to Child Abuse and Neglect

The Winter 2004 issue of *Children, Families and the Courts* described the *Subcommittee on Responding to Child Abuse and Neglect*. This group was established by the Supreme Court of Ohio's *Advisory Committee on Children, Families and the Court*. to:

- determine if Ohio's statutory guidelines for the investigation and prosecution of child abuse and neglect properly serve children and families in need of government intervention;
- make statutory and administrative recommendations to improve Ohio's system for accepting and investigating reports of child abuse and neglect; and
- make recommendations to standardize and make uniform Ohio statutes regarding abuse, neglect, and dependency cases.

A national search for consultant support was released by the Supreme Court of Ohio. The *American Bar Association Center on Children and the Law* (ABA) located in Washington, D.C. and the *National Center for Adoption Law and Policy* (Center) located in Columbus, Ohio were selected. Activities have included:

- A review of Ohio statute and code to identify conflicting and redundant language;
- A survey of stakeholders;
- An extensive series of targeted group and individual interviews;
- National review of other states' legislation; and
- Development of alternative language options and/or alternative models for each of the issues most consistently identified through survey and/or interview.

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New Training for Caseworkers on 4th and 14th Amendment Protections

In 2003 the federal Child Abuse Prevention and Treatment Act (CAPTA) was amended to include two new stipulations:

- Individuals who are the subject of a child abuse or neglect investigation must be informed of the allegations or complaints made against them at the initial time of contact by a public children services agency
- Child protection caseworkers must receive training on their legal duties which should include methods for protecting the rights and safety of children and families from the time of initial contact.

In Ohio, child welfare caseworkers are required to complete a “Core Curriculum” offered through the Ohio Child Welfare Training Program within a specified time period after hire. In January of 2005, the Ohio Department of Job and Family Services directed the Institute for Human Services, as state coordinator for the Ohio Child Welfare Training Program, to develop a standalone workshop for caseworkers who had completed this core module prior to revisions.

The Institute for Human Services convened and facilitated a statewide work group of child welfare professionals to address the complicated practice issues involved in implementing these stipulations and ensuring parents’ rights during a child protection investigation. The workgroup developed a guidance paper for child welfare professionals and oversaw workshop development.

The ½ day workshop was offered throughout Ohio in May and early June, 2005 to public children service agency workers, supervisors, managers, administrators, and agency attorneys/assistant prosecutors. The workshop covered the new federal requirements, provided guidance on how to ensure protection of parental rights during investigations, and reviewed procedures for ensuring parental rights throughout families’ involvement with the public children services agency.

For more information, contact Nan Beeler at nbeeler@ihs-trainet.com

UPDATE: Subcommittee on Responding to Child Abuse and Neglect *(continued from page 23)*

Not surprisingly, the items most consistently identified included a mixture of process issues (e.g. assignment of delinquency cases to the child welfare system; hearsay exclusions in preliminary hearings), language issues (e.g. ambiguous or absent definitions, confusing and conflicting cross references, multiple statutory provisions), and program issues (feasibility of providing effective substance abuse treatment within permanency timeframes, poverty as a factor of neglect, and failure to provide medical treatment).

Prior to the subcommittee’s review, a variety of options will be presented to focus groups for input on the practicality of each option. It is expected that the subcommittee will have final recommendations prepared for presentation to the full Advisory Committee in January 2006.

Applying the 4th Amendment in Child Protection Investigations

It should come as no surprise that social workers and other child welfare workers are covered by the 4th Amendment to the United States Constitution. What might be surprising is that the most conservative federal district courts are taking the lead in redefining this rapidly evolving constitutional mandate, most notably the Tenth Circuit Court of Appeals (covering Wyoming, Utah, Colorado, New Mexico, Oklahoma and Kansas).

Applicable to the states through the 14th Amendment's Due Process Clause, the 4th Amendment provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." Because the Amendment focuses on safeguarding persons from unwarranted intrusion, and not on regulating the behavior of particular governmental actors, the prohibition against unreasonable seizures extends to civil, as well as criminal, investigations by the government.

In *Dubbs v. Head Start, Inc.*, 336 F.3d 1194 (10th Cir. 2003), the Tenth Circuit Court of Appeals held that there is no social worker exception to the 4th Fourth Amendment. In *Dubbs*, eight pre-school children enrolled in the Head Start program were subjected to intrusive physical examinations, including genital examinations and blood tests, on school premises without parental notice or consent.

Also in 2003, the Seventh Circuit Court of Appeals, in *Doe v. Heck*, 327 F.3d 492 (7th Cir. 2003) held that the strictures of the 4th Amendment apply to child welfare workers, as well as all other governmental employees. In that case, a private Christian elementary school and a student's parents sued several child welfare caseworkers under the 4th and 14th Amendments after the caseworkers interviewed a student about corporal punishment without a warrant or the consent of the school or parents.

A 4th Amendment analysis is based on the totality of the circumstances in determining whether a reasonable person would have believed that he was not free to terminate an encounter with government. Some of the factors considered include:

- 1) the threatening presence of several officials;
- 2) the brandishing of a weapon by an official;
- 3) some physical touching by an official;
- 4) use of aggressive language or tone of voice indicating that compliance with an official's request is compulsory;
- 5) prolonged retention of a person's personal effects;
- 6) a request to accompany the official to the station;
- 7) interaction in a nonpublic place or a small, enclosed place;
- 8) and absence of other members of the public.

In the 10th Circuit Court of Appeal's most recent decision issued last week, *Jones v. Hunt*, 2005 WL 1395095 (10th Cir. 2005) the court analyzed a sixteen year old girl's encounter with child welfare social workers "through the eyes of a reasonable sixteen year old" child.

After concluding that the alleged encounter constituted a seizure, the court then reviewed whether the seizure was reasonable which depends on the context in which it took place. With limited exceptions, a search or seizure requires either a warrant or probable cause.

In this case, the court found that the social worker's actions "violated the most minimal standard of which we can conceive." The court held that where no legitimate basis exists for detaining a child, a seizure is plainly unreasonable. The court further found that this standard was clearly established as far back as 1994 when it held, in *Doe v. Bagan*, 41 F.3d 571 (10th Cir. 1994) that a seizure of a nine year old boy was justified at its inception because a victim of child abuse had identified him as her abuser and a ten minute interview with a social services caseworker was reasonably related in scope to determining Doe's role in the incident.

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UPDATE: External MEPA Monitor

The Winter 2005 issue of *Children, Families and the Court* looked at how the federal Multiethnic Placement Act (MEPA) of 1994, as amended by the Interethnic Adoption (IEP) Provisions of 1996, has impacted upon Ohio. As a part of that legislation, the U.S. Department of Health and Human Services, Office for Civil Rights (OCR) conducts periodic reviews to determine whether states, counties or individual agencies that receive federal Title IV-E money for foster and/or adoption placements are in compliance with Title VI of the Civil Rights Act as well as section 1808 (MEPA-IEP). The Office for Civil Rights' 2003 noncompliance finding for Ohio and Hamilton County, as well as the implementation of Ohio's 2004 approved Corrective Action and Resolution Plan has had a significant effect.

Monitoring the Corrective Action and Resolution Plan, as well as local agency MEPA-IEP compliance is an important component of Ohio's activities. The Ohio Department of Job and Family Services has created the position of External Monitor to fulfill a number of functions, including:

- Oversight and evaluation of the Ohio Department of Job and Family Services' compliance with the Corrective Action and Resolution Plan, MEPA, and Title VI as it pertains to the adoption and foster care process.
- Ongoing review and evaluation of the Ohio Department of Job and Family Services' implementation of its Oversight Plan.

The External Monitor will provide written reports to state and federal agencies, based on a variety of activities, including periodically attending placement meetings, conducting interviews and focus groups, and conducting announced and unannounced visits to the range of Ohio agencies that place children, as well as private non-custodial agencies. The External Monitor also will work with the Ohio Department of Job and Family Services to ensure that Ohio Administrative Code rules and policies are developed consistent with the Corrective Action and Resolution Plan, MEPA and Title VI as it pertains to the adoption and foster care process.

After an open call for candidates, the Ohio Department of Job and Family Services has recommended (and HHS' Office of Civil Rights and Administration for Children and Families have accepted) Michelle Riske-Morris as Ohio's External Monitor. Ms. Riske-Morris brings a broad-based educational and professional background that carries a unique accumulation of experience and perspective. She has a Juris Doctor and Masters Degree in Experimental Psychology from Case Western Reserve University, where she currently is a Ph.D. Candidate (ABD) in Social Welfare. She has held administrative positions in state and county government, worked as a sole practitioner and law firm associate, provided research and consulting services through a non-profit agency, and has taught at the college level. The External Monitor is a five-year position, and became effective September 16, 2005.

Applying the 4th Amendment in Child Protection Investigations

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In a critical footnote in *Jones v. Hunt*, the court noted that "we do not imply that a social worker investigating allegations of abuse or neglect necessarily requires a warrant, probable cause, or exigent circumstances before questioning a child on public school property. Where a social worker merely conducted an interview of a child at a public school, and thus did not remove the child nor interfere with the sanctity of the private home, we have applied the Terry standard." (a search of a child by a government official is reasonable if "justified at its inception" and "reasonably related in scope to the circumstances which justified the interference in the first place)

The court concluded "it may be that the Terry standard applies even where a social worker removes a child from her parents' custody at a public school following a legitimate investigation into child abuse and neglect."

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SACWIS is Coming!

There is no need for panic, SACWIS stands for Statewide Automated Child Welfare Information System. After several years of design and development work, the Ohio Department of Job and Family Services, in partnership with Ohio's 88 public children services agencies, is approaching the implementation stage of this new and comprehensive case management system. SACWIS not only will provide accurate and timely data to guide state and county management in program-related decisions, it also has the case-specific capability to assist direct service (county) staff in overseeing workload and case flow management.

Ohio joins many other states in developing and implementing a SACWIS system. The impetus for SACWIS development came through Title XIII, Section 13713 of the federal Omnibus Budget Reconciliation Act (OBRA) of 1993, enacted August 19, 1993. That legislation provided states with the opportunity to obtain 75% enhanced funding through the Title IV-E program of the Social Security Act to plan, design, develop, and implement a SACWIS. Since that time, enhanced funding was extended and new legislation provided an enhanced SACWIS cost allocation to states so that Title IV-E would absorb all SACWIS costs for foster and adopted children, without regard to their Title IV-E eligibility. Currently, most states are at some stage of SACWIS planning, development, implementation or operation. Ohio's SACWIS will be the nation's second web-based application.

SACWIS replaces the SACWIS Interim Solution (SIS) and all metro county systems. It will contain all functional areas of casework including intake, case management, court processing, administration, eligibility (IV-E), resource management, and financial management. The benefits of SACWIS will include:

1. Improved evaluation of service needs and service provision;
2. Improved case planning and management;
3. Timely access to accurate, reliable data;
4. Reduced paperwork burden for caseworkers; and
5. Improved management reporting.

Ohio's SACWIS Project Management Team is comprised of both state and contracted staff. In May 2004, Dynamics Research Corporation (DRC) and its subcontractor, CompuWare, formally began work with the Ohio Department of Job & Family Services to design, develop and implement Ohio's SACWIS. Together they are responsible for ensuring that the bridge between state and county is effectively navigated in SACWIS development. At this time, the analysis & design is 91% complete and over 400 web pages have been constructed.

The project team will be concentrating on change management and user acceptance testing throughout 2005. During the first quarter of 2006, Muskingham County Public Children Services Agency will pilot SACWIS for 90 days. Pilot operations are intended to measure all facets of SACWIS in a live county environment. Statewide implementation will begin at the conclusion of the pilot period.

Although county agencies will not all receive SACWIS simultaneously, they will receive it in one package. There will be a single release of SACWIS which contains all system functionality; when counties implement SACWIS it is a total and complete conversion from the existing operating system. Implementation will be conducted in "waves" which will occur twice a month for eight months. Each wave will implement SACWIS in one metro county *or* eight to twelve non-metro counties. Training for each county will commence 30 days prior to SACWIS roll-out. Web-based training will also be available as will a post-training practice database. SACWIS is expected to be fully operational on a state-wide basis by the first quarter of 2007. It is anticipated that its enhanced case management capabilities and improved access to accurate and timely data will have significant impact both on Ohio's public children services agencies and their community partners.

Additional information regarding Ohio's SACWIS project is available at <http://jfs.ohio.gov/sacwis>.

Questions regarding SACWIS can be directly entered at the SACWIS mailbox, sacwis@odjfs.state.oh.us.

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The National Center for Juvenile Justice (NCJJ) is a non-profit organization that conducts research (statistical, legal, and applied) on a broad range of juvenile justice topics and provides technical assistance to the field. NCJJ is the research division of the National Council of Juvenile and Family Court Judges.

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