

**PROMOTING COMMUNITY
PROTECTION OF ADOLESCENTS
Part 2-Oregon**

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August 2005**

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INTRODUCTION

***"The solution of adult problems tomorrow depends in large measure upon the way our children grow up today. There is no greater insight into the future than recognizing that when we save our children we save ourselves."
- Margaret Mead***

Maltreatment of adolescents has been overlooked in Oregon. Although there has been increasing awareness of child abuse, as evidenced by increasing numbers of reports of child abuse and corresponding intervention by the Department of Human Services - Child Welfare (DHS-CW), there has been little attention to the plight of teenagers who are the victims of familial violence and neglect. Victimized adolescents have long fallen between the cracks in Oregon's child service agencies. **Not yet adults and no longer children, adolescents have the needs of both and the status of neither.**

We have failed as a state to clearly define necessary and appropriate programming for maltreated adolescents. This paper examines the issues facing adolescent victims of abuse and neglect and challenges us to make the efforts necessary to improve the child welfare system's response to adolescent abuse and neglect. This paper is a project of the Children's Justice Act (CJA)¹ Task Force.

¹ The Children's Justice Act established a Task Force to examine adolescent maltreatment in Oregon. In October 2003, Juvenile Rights Project, Inc. (JRP) was awarded a CJA grant for the purpose of researching and improving the handling of cases of adolescent abuse and neglect.

Joe is a seventeen-year-old student in special education classes at Jefferson High School. For over 18 months, his teachers repeatedly communicated concerns of neglect to DHS and received no response. The concerns included medical neglect, lack of food in the home, insufficient water supply, alcohol abuse, filthy conditions, and domestic violence. According to his teacher, Ms. Smith, in the winter of 2003, Joe had an ear infection due to a lodged cotton ball and his parents neglected to seek medical treatment for it even after the school informed them of the situation. She also said that Joe shows up to school completely filthy and that school staff have also taken it upon themselves to wash his clothes. Ms. Smith discovered Joe's house hasn't had hot water for several months and may have had no water at all. In addition, Joe's parents consistently pick on him, often calling him a "retard." When Joe's father gets angry, he attacks Joe, pushing him into walls and throwing him to the floor. Teachers and administrators have taped Joe's dilapidated shoes together, and he wanders the streets to avoid going home, looking for bottles and cans to redeem the deposit and buy food. After failing to receive DHS assistance, Joe's teachers contacted the JRP Help Line for advice on how to help Joe escape the neglect.²

The JRP Help Line, which serves adolescents who have been unable to receive assistance through other means³, hears stories like Joe's almost daily. Ramona Foley, Assistant Director for the Department of Human Services - Children, Adults and Families, has acknowledged that failure to respond to abuse and neglect of teens is a significant issue in Oregon.⁴ Although DHS is making greater efforts to respond to teens, adolescents remain an underserved population.

“We must ensure that the protection and safety of all children are seen as a priority. Today's teens will be the parents of tomorrow.

² JRP Help Line Client Files. Several Help Line clients are referenced throughout this paper; the client references and life stories are compiled from Help Line calls and files, 2002-2005. The client stories are solely based on information provided by the client, they reflect the client's perception at a particular point in time. As part of assisting clients, the Help Line staff normally reports abuse and neglect to DHS and frequently works with the agency to address the needs of the client.

³ 77% of Help Line calls are regarding youth over age 12.

⁴ FOCUS Newsletter (news release of Oregon DHS) (October 2000).

**Protective services to children today are an investment to give young people opportunities to become the self-sufficient and productive young adults of tomorrow.”
-Ramona Foley**

PART 1 --- OREGON

I. ADOLSCENT MALTREATMENT IN OREGON

A. History

In the early 1990's, Children's Services Division (CSD), subsequently renamed State Office for Services to Children and Families (SOSCF), and now Department of Human Services (DHS), implemented a policy that excluded teens from its protective services and foster care. The policy was initiated in 1989 as a budget document through which DHS sought to demonstrate the inadequacy of funding levels for serving all of the children within its mandate. The policy, which was implemented despite never being passed by the legislature⁵, allowed prioritization of services based on a level of vulnerability scale. Teens normally were placed on level seven, the lowest level of the scale. This was done because teens were believed to be less at risk than younger children, and it was assumed that they would be more able to remove themselves from a dangerous situation than younger children at risk.⁶ People trying to report abuse and neglect of teens, or seeking services for them, were told by SCF staff that they did not

⁵ HB 2141 was offered in the 1989 session to allow prioritization of cases to be served by CSD. Testifying about the likely effects of such prioritization, then Administrator of CSD, William L. Carey stated: "Some of these children will undoubtedly penetrate the mental health or juvenile justice system because they do not receive services. Others will live on the streets, become pregnant or both." Legislative History HB 2141 (1989). Not surprisingly, HB 2141 did not pass.

⁶ Interview with Rosemary Iavendetti (Independent Living Coordinator for the State of Oregon), July 29, 2003.

serve teens.⁷ Services to teens were limited and available only to those with serious physical injuries or victims of sexual abuse.

Although the agency changed this policy in 2000, the myth that DHS does not serve teens has persisted. Then SCF Administrator and current Assistant Director of DHS-CAF, Ramona Foley, stated: "Several years later, we are seeing the results of this practice shift. Oregon statistics reflect fewer substantiated victims of maltreatment among teenagers and fewer teens in foster care when our data is compared to national data."⁸ Although Ms. Foley has made it clear that the agency must serve children who are neglected and abused without regard to age, the myth persists both within and outside the Agency.⁹

Some progress has been made. In its Annual Status of Abused and Neglected Children Report, DHS reported that of more than 13,000 children served in foster care in 2002, teens represented 29.1% of this population. This is an increase of 5% over the previous year.¹⁰ Ramona Foley commented: "This speaks to the fact that abuse and

⁷ Nor is Oregon alone in this problem of inadequate response to abuse and neglect reports involving teens. The report of the 2000 Conference of the Support Center for Child Advocates cited the need for child welfare systems to be more responsive to reports of abuse or neglect of teens because in many states hotline calls regarding teens are a low priority for investigation.

⁸ Focus Newsletter (October 2000). Oregon substantiates 19% of abuse reports for children ages 11 to 15, as compared with 23% nationally, and only substantiates 3% of cases for children 16 and older, compared with 6% nationally. National Center for Child Abuse and Neglect, 1999. Although Oregon has the same percentage of children in care in the 11 to 15 age group (27%) as the national average, Oregon has only 9% of children 16 to 18 in foster care, compared with a national average of 14%. Further, in the 19-plus age group, Oregon has 0% compared to 2% nationally. Adoption and Foster Care Analysis Reporting System, 1999.

⁹ During the 90's a small amount of funds were transferred from DHS (then CSD) to the Oregon Commission on Children and Families to serve "Level 7" youth. Although the funds transferred to the Commission were never sufficient to serve the population and the legal responsibility and authority to serve abused and neglected teens remained in DHS, a variation on the myth developed that held that DHS did not serve teens because they were served by OCCF.

¹⁰ *State Releases Annual Status of Abused and Neglected Children Report*, Department of Human Services News Release (July 22, 2003).

neglect of teens does occur, is being reported and requires that we address the needs of this population with appropriate intervention and services...granted our most vulnerable population and our highest victim count are represented by children under the age of 6. But a child can be unsafe regardless of the child's age."¹¹

B. Magnitude

Although some progress is being made, there is a considerable amount to be achieved before the prospects for youth improve. Oregon ranks 47th in a rank ordering of states by the percentage of children entering foster care at age 16-18.¹² Only 4.5% of youth entering foster care in Oregon were 16-18 years old compared to a national average of 11.7%.¹³

Because many teens fare poorly in foster care, it is important to recognize that it is not the appropriate solution for every abused and neglected teen. Immediate state intervention may scare or overwhelm a youth and discourage him or her from seeking further assistance. It is essential to provide foster care for the teens who need and would prefer it, and to provide the right services for youth who may not fit within the traditional foster care model.

C. Nature of Adolescent Maltreatment in Oregon

In a survey of Child Welfare Managers, the following were identified as the type of issues adolescents presented at intake: physical abuse due to teen/parent conflict; third party sex abuse; mental health and drug and alcohol issues - needing treatment;

¹¹ *Id.* (Statement by Ramona Foley, Assistant Director of DHS/CAF).

¹² Department of Human Services (Fax), Rank Order of States by Percent of Children Entering Foster Care at age 16-18, Child Welfare Outcome Data (2001).

¹³ *Id.*

youth assaulting others in the family; teen parents with additional risk factors; and homelessness where the adolescent has been kicked out by the parent(s), has left due to abuse, or where the adolescent has had to take on child care duties for younger children.

II. THE RESPONSE TO ADOLESCENT MALTREATMENT

A. Child Protective Services

An effective child protective services system is more than just a child welfare agency. Law enforcement and other child service agencies are included within CPS. In most states, a multi-disciplinary team is used to “effectively diagnose and treat child abuse, and . . . coordinate the efforts of the many agencies involved.”¹⁴ The team is usually a community based group composed of professionals who utilize their diverse talents and expertise to produce a cohesive plan for the maltreated child. Treatment agencies provide a broad range of services for both maltreated children and their families. Services range from parenting classes and job counseling to therapeutic services and emergency day care. Law enforcement is also involved in MDTs; however, for the most part law enforcement tends to be involved in cases of serious physical abuse and sexual abuse.¹⁵

Nationally, the child protective services system is wrought with problems. There are five common criticisms of the national system: (1) over inclusion of low-risk families, (2) under inclusion of potentially high-risk families, (3) inability to manage the rapidly

¹⁴ *Legal Rights of Children*, 2nd Ed. (Donald T. Kramer, J.D. ed., McGraw-Hill, Inc. 1994).

¹⁵ *Id.*

growing number of abuse and neglect reports, (4) ineffective service delivery, and (5) a “one size fits all” approach to addressing family needs.¹⁶

The chief criticism is that the “one size fits all” approach is an inappropriate method of response to the needs of the family. The result of this method is that some families are treated more harshly than necessary, while others do not receive the aggressive intervention needed to protect their children. A customized response begins with screening. Each report should be grouped into two or more categories based on the level of risk to the child. High risk cases need an immediate investigative response, while an assessment-oriented response is more appropriate for lower risks. A decision to remove a child from his/her family should always be staffed with a supervisor because of the seriousness of the decision and its long-term effects.¹⁷

Many families have multiple needs and require the assistance of an array of agencies. Stronger agency partnerships allow agencies outside of the traditional human services arena to contribute to a child’s protection. CPS should work with these potential partners to offer customized services which can best assist families and children in need. Joining forces also allows partner agencies to relieve CPS of its heavy caseload burden. In lower risk cases, these partner agencies would both provide services and monitor progress. CPS could then focus its resources on high risk cases which need immediate response. Informal helpers, members of the community or of the families themselves, are often able to provide vital services. CPS should strive to

¹⁶ Jane Waldfogel, *Reforming Child Protective Services*, Child Welfare Vol. LXXIX (1) (January/February 2000).

¹⁷ U.S. Department of Health & Human Services, Administration for Children & Families, *Supervisory Involvement in the CPS Process*, <http://nccanch.acf.hhs.gov/pubs/usermanuals/supercps/process.cfm> (1998).

involve neighborhood associations, congregations, and families in assisting the family. Utilizing informal helpers is an effective means providing adequate care for children in lower-risk situations.¹⁸

1. Intake and Assessment Policies and Practices in Oregon

The child protective services function of DHS is described in ORS 419B.005 to 419B.045. The CPS unit is the point of entry for most DHS cases of abused and neglected children. The unit is responsible for receiving reports of child abuse and neglect, investigating these reports to determine if there is reason to believe maltreatment occurred, and take appropriate action, including removing the child from the home and filing a dependency petition. Under the Adoption and Safe Families Act (ASFA), safety of the child is paramount in determining what type of action to take.¹⁹ Although CPS is a critical function of the child welfare system, it is not the only function. DHS also has obligations to work to strengthen families and promote permanency for children.

The intake process for the child protective system involves several major tasks and decisions.²⁰ Generally, this process starts with a phone call reporting abuse or neglect to DHS. These calls usually come from people in the community, often mandatory reporters. Mandatory reporters work in designated professions and are legally required to report information of abuse or neglect. The screeners who receive abuse reports collect as much information as they can from the reporter, including full names, contact information, what the suspected abuse was, and how they learned of it.

¹⁸ Waldfogel, *supra*.

¹⁹ Adoption and Safe Families Act of 1997, 42 USC 1305 §101 (1997).

²⁰ As observed in Multnomah County (2004).

While they are taking the report, or immediately thereafter, the screener must make an assessment about the child's safety and whether the report warrants further investigation. Screeners use the structured guided assessment process (GAP) as a guide to determine the safety threat to the child. If the screener decides that there should be further assessment, the report and case will be assigned to a worker, with a timeline of no more than five days (and often much less than 5 days) to make an initial safety assessment. The five day timeframe is flexible and in some cases can be lengthened to meet the needs of the child. For example, the five days can be extended if the child is homeless or on the run, thereby allowing the worker adequate time to locate the child. If the case is sent for a safety assessment, it is also cross-reported to a local law enforcement agency.

Oregon has addressed criticisms of the child protection system in a variety of ways. DHS developed a Community Safety Net program, a community-based collaborative network that responds to children about whom there are serious concerns and who started out in the CPS system, but were not in need of significant services or juvenile court intervention. The program, which utilizes a variety of local organizations to provide early intervention services to high-risk families, is an innovative example of using partner agencies to assist DHS in preventing abuse and neglect.²¹

Because DHS is making conscious efforts to assist teens, the agency continues to develop creative solutions and rely on community partners. For example, Portland's Access and Reception Center provides short-term relief from danger for youth unable to

²¹ See http://www.dhs.state.or.us/children/abuse/com_safety_net/csn.htm (accessed November 11, 2004).

return to their families and identifies the needs of each youth to determine what each individual youth needs to successfully transition out of street life. DHS relies on the Access and Reception Center to both identify teens who need the support of DHS and to provide for the teens who may not be eligible for or may not want DHS services.

2. The Guided Assessment Process (GAP)

In response to poor outcomes on the National Child & Family Services Review, in 2003 Oregon implemented GAP as the tool for safety threat assessment. GAP is an assessment model derived from the Structured Decision Making (SDM) process. The goal of SDM is to promote uniformity, consistency and objectivity in screening cases, which in turn allows DHS to better allocate resources.²² Without the SDM model, assessments could vary drastically depending on which screener was assessing the case and that screener's individual preferences.²³ Simplicity is the key to SDM because it allows DHS screeners to make critical assessment decisions based on a small set of indicating factors. National studies prove that the SDM method takes much of the individual bias out of the screening process and leads to a more thorough and uniform assessment.²⁴

Multnomah County was chosen as a pilot for a state-wide rollout which began in late 2004. GAP covers a variety of categories, each of which includes a list of questions the screener must answer. The three categories which factor into the screening decision are: risk/influences-child needs, risk/influences-caregiver protection, and

²² Jim White, *The Development of GAP in Oregon*, PSU Child Welfare Partnership Project (2002).

²³ Rossi, Schuerman & Buddle, *Understanding Child Maltreatment Decisions and Those Who Make Them*, Chapin Hall Center for Children, University of Chicago (June 1996).

²⁴ *Id.*

safety threats reported. In the child's needs section, the screener answers questions about the child such as: does the child have special needs?, suicidal response?, protective resources for the child?, etc. In the caregiver category, issues such as the caregiver's attitude, health, and prior record are addressed. In the third category, safety threats reported, the screener determines the threat to the child and whether the threat requires an immediate response, an impending response, or less-urgent response.

GAP provides examples of situations which help screeners determine the safety threat and required response. For example, if the caregiver is manufacturing dangerous drugs, an immediate response is warranted. After completing the safety threats reported section, the screener makes a screening decision as to the next steps of the case. If there is enough information to possibly warrant further investigation, then the screener must consult with a supervisor. Thus, at least two people are always involved in making the decision to refer a case for further assessment and in setting the timeline for the assessment. If the screener decides that there is not enough information to require further assessment, then the case will "close at screening." Screeners recognize that although an immediate response may not be warranted, the caller may benefit from a referral to a community partner. Supervisors must review every case that is "closed at screening" to ensure calls do not slip through the cracks.²⁵

Excellence within the child welfare system requires flexibility to address the dynamic needs of individual families, a community-based network for both provision of services and to aid in investigation, increased reliance on informal and natural helpers,

²⁵ Interview with Ann Hannan, Manager of Human Services, DHS Hotline, Multnomah County (June 3rd, 2004).

and an effective way to respond to reports of abuse and neglect.²⁶ Best practices which address the criticisms of the child welfare system, such as the Community Safety Net Program and the Guided Assessment Process, are slowly being developed and adopted in Oregon and across the country.

B. Law Enforcement

By the time Jennifer called the HelpLine, her mom was set to move the next day and take Jennifer with her. A 16-year-old girl who excelled in school and planned to become an attorney, Jennifer had flourished in a friend's home for nearly three years. Her mom, unable to care for Jennifer full time due to her drug and alcohol addictions, had sent her daughter to live with neighbors down the street. Jennifer flourished in her new home, and spent less and less time with her mom. Mom and her boyfriend had a history of domestic violence, which had resulted in substantial physical harm on at least one occasion. Mom had also knocked Jennifer's brothers around, but Jennifer never thought it would happen to her. But that notion was shattered when Mom barged into the house where Jennifer was staying, snatched her dinner away, yanked her by the arm and dragged her to the door. Mom then straddled her, shoved her arms down and punched her in the face. The neighbor family notified the police, but, since Jennifer showed no signs of bruising, the officer didn't make a report. Mom was determined to leave town. Over the protests of Jennifer's teachers, Mom withdrew her from school and prepared for a move. JRP made an abuse report and met with Jennifer at the school to discuss her options, but by the time a referral was made, Mom had taken Jennifer out of town. Jennifer worried that it would happen again.

Law enforcement plays a major role in child protective services. The function of law enforcement in child abuse cases is to investigate to determine if a violation of criminal law occurred, identify and apprehend the offender, and file appropriate criminal charges. Because law enforcement is only one component of the community response

²⁶ Rossi, *supra*.

to child maltreatment, the response of law enforcement to child abuse needs to be well-informed and consistent with partner agencies.²⁷

Oregon statutes require LEA involvement almost from the time a child abuse or neglect report is received by DHS. ORS 419B.015 mandates cross-reporting, so that when DHS receives an abuse report, the appropriate LEA is notified and when a LEA receives an abuse report, DHS is notified. Upon receipt of an abuse report, DHS will conduct an initial screening, and will cross-report to law enforcement every case which the screener determines requires additional assessment. In cases involving sexual abuse or serious physical abuse, a special effort is made to contact law enforcement and initiate a joint response. When a LEA receives an abuse report, the LEA must immediately notify the local DHS office of the report. DHS may then conduct its own assessment and dispatch law enforcement if required or, the LEA may conduct the investigation and inform DHS of the results. If the LEA has reasonable cause to believe abuse has occurred, the LEA must provide a written report to DHS so that DHS may provide necessary social services.²⁸

The purpose of cross-reporting is to ensure abused and neglected children do not escape the notice of the police or DHS. Without cross-reporting requirements, the police may receive a report of abuse and for a variety of reasons, fail to investigate the report. Cross-reporting connects information between LEAs and DHS so that each agency is able to accurately assess the safety risks and prioritize effectively.

²⁷ Carl B. Hammond, Kenneth V. Lanning, Wayne Promisel, Jack R. Shepherd, & Bill Walsh, *Law Enforcement Response to Child Abuse*, National Criminal Justice Reference Service (March 2001).

²⁸ Or. Rev. Stat. § 419B.020 (2003).

With reports of abuse and neglect on the rise, it is critical that police officers be trained to handle cases involving child and adolescent maltreatment.²⁹ LEAs should understand their critical role in responding to abuse. Law enforcement officers need to clearly understand the differences between the legal requirements to establish crimes and the less rigorous criteria to establish child abuse under the juvenile code. LEAs working in partnership with child protective services and additional community resources are better equipped than those working alone to counteract child abuse and neglect.³⁰

C. Multi-Disciplinary Teams (MDTs)

1. Introduction to MDTs

An MDT is a group of professionals who work together in a collaborative manner to investigate and respond to allegations of child maltreatment. Members of the team usually include government agencies, law enforcement, prosecution, and private practitioners responsible for investigating child abuse and protecting and treating victims of child abuse. MDTs can be general, with a focus on investigating child maltreatment, or very specific, such as an MDT which investigates child fatalities resulting from abuse and neglect.³¹

The purpose of an MDT is to effectively investigate allegations of abuse and neglect by ensuring open collaboration and cooperation among various agencies and professionals. The MDT approach promotes a coordinated response to child abuse

²⁹Hammond, *supra*.

³⁰Mark Ells, *Forming a Multidisciplinary Team to Investigate Child Abuse*, U.S. Department of Justice (2002).

³¹*Id.*

investigations as well as minimizes trauma to the child because the participating members share data and resources to effectively address the case.

The MDT process often reaches beyond joint investigation and extends to joint decision-making. Team investigators rely on the wealth of skills and experiences of the team members, who share their knowledge and abilities. Each team member is responsible for filling his or her own professional role as well as considering the roles of the other members.³²

Creating and administering an MDT is a systemic process. Forming an MDT starts with identifying and recruiting team members. Three-fourths of states have statutes which authorize MDTs and require membership by law enforcement, child protective services, and prosecution. Other community resources such as mental health professionals, court appointed advocates, and educators are often added to the team. An optimal team is composed of all community agencies responsible for reporting abuse and agencies providing services to prevent or resolve problems stemming from abuse.³³

After formation, the MDT members meet to determine the scope and mission of the team. The next step is to write a MDT protocol. A protocol is an essential component of a smoothly-running MDT. The protocol is a written understanding of the functions of each member and participating agency. A detailed protocol diminishes uncertainty that arises during investigations because roles and responsibilities are well-defined. Investigations which follow the protocol are conducted in a reliable and

³² *Id.*

³³ Meriam S. Rogan, *The Multidisciplinary Team Approach to Child Abuse and Neglect in Violence Hits Home: Comprehensive Treatment Approaches to Domestic Violence* (Praeger Publishers 1990).

consistent manner. The shared understanding of the investigation process minimizes conflict and allows for a more efficient investigation.³⁴ The protocol is a working document which should be periodically reviewed and updated to ensure the process meets the needs of the team members and the local community.

The final component of an MDT is evaluation. Periodic evaluation is essential to determining whether the team is functioning successfully. Evaluation can be in the form of self-analysis as well as solicited from victims, families, outside agencies, community members, and agency supervisors. The team should schedule periodic evaluations and address suggestions which result from the evaluations.³⁵

a. MDTs-making a national impact

As early as 1977 MDTs were recognized as successful in acquiring services for child victims of abuse and neglect. The national need for a team approach to investigations grew as the number of child abuse and neglect reports increased dramatically, placing a strain on limited resources. Significant pressure was placed on agencies to act quickly yet professionally when faced with abuse reports. The availability of research related to child maltreatment also increased rapidly, so that a cross-section of experts had valuable information regarding the best way to identify and treat abuse victims. Additionally, the law continued to be refined in the areas of evidence, procedure, and victims' rights. Each of these factors encouraged the growth of MDTs.³⁶ Progress in team building spread slowly but surely across the United States

³⁴ Eils, *supra*.

³⁵ *Id.*

³⁶ *Id.*

and by 1982 it was “practically unheard of for a community to lack a multidisciplinary team of professionals to review cases of child maltreatment.”³⁷

Today, recognized benefits of MDTs include: reduced trauma to children and their families, enhanced agency decisions, more capable and better trained professionals, more efficient use of agency resources, and greater community trust. These benefits translate into safer communities.³⁸ Team members receive valuable support which reduces frustration and burnout. Information sharing among professionals results in sound decision-making. MDTs have been proven to be one of the most effective means to investigate, heal, and prevent further damage to the wounds caused by child abuse and neglect.³⁹

b. Oregon MDTs

Senator Joyce Cohen introduced MDT legislation in 1987 to address the investigation of a Lincoln County child abuse case which was unsuccessful due to the lack of coordination between necessary agencies.⁴⁰ Clackamas County, one of several counties who were already taking an MDT approach to investigation, was used as a model for the state legislation.⁴¹ Two years later, the legislature passed ORS § 418.747, which mandates the MDT approach to investigate child maltreatment. The provisions of the statute require each county DA to develop an MDT composed of members of law enforcement, DHS workers, school officials, county health department personnel, child abuse intervention center workers, and additional available county

³⁷ Rogan, *supra*.

³⁸ Ells, *supra*.

³⁹ Rogan, *supra*.

⁴⁰ Interview with Helen Smith, Deputy District Attorney, Multnomah County (June 17th, 2004).

⁴¹ Or. House Jud. Comm. on Family Justice, Hearing on SB 967A, 65th Reg. Sess. (May 19, 1989).

resources. Each team must develop a written protocol which specifies roles, procedures, and guidelines for communication. Section (3) is noteworthy because it requires team members to be trained on age-specific techniques for investigation and interviews. Methods to comply with section (3) will be addressed later under best practices.⁴²

The legislative history of § 418.747 indicates that in 1989, appropriate training of CPS workers was a top priority, just as it is today. DHS supported the development of MDT protocols for investigation and interviews as a way to better train CPS workers. The public hearings held on the MDT statute further underscored the need for thorough training among participating agencies. Confidentiality and information sharing was also a hot topic in Judiciary Committee hearings. Final agreement was that any information pertinent to making a decision in the best interest of the child could be obtained and shared among team members.⁴³

Implementation of the MDT protocols proved to be challenging. Confidentiality and the responsibilities of team members were sources of conflict. Originally, § 418.747 had limited funding which made obtaining consensus from all of the various resource strapped agencies difficult. However, the teams progressed with some success, focusing on the goal of ensuring parties necessary to the investigation worked together.

In 1995, the Child Abuse Multidisciplinary Intervention Account (CAMI) was formed to provide funding to local MDTs. CAMI is a non-competitive grant, drawn from the unitary assessment fund and administered by the Department of Justice (DOJ),

⁴² Or. Rev. Stat. § 418.747 (2003).

⁴³ Or. House Jud. Comm. on Family Justice, Hearing on SB 967A, 65th Reg. Sess. (Apr. 14, 1989).

given by the state to each county who meets the MDT protocol requirements.⁴⁴ The MDT model really took hold across the state because of CAMI funding. In Multnomah County, CAMI funds enabled several police departments to participate in the MDT and paid for DHS caseworkers to be placed within schools. Some counties used the CAMI grant to train MDT members while others used it to fund an educational team member.

Presently, each county in Oregon has its own unique MDT protocol. The MDT protocols vary by county depending on the community resources available and the county's needs. Most Oregon counties have at least two different MDT protocols, one for child protection and one for child sexual abuse. Many child protection teams are not equipped to deal with sexual abuse so it is preferable for a distinct group to investigate these cases.⁴⁵ However, there are elements of the protocols common to all MDTs:

1. Team members: Each MDT includes the team members mandated by statute along with those members available in the community who have professional skills which can aid the investigation. For example, the Hood River Protocol includes a member from the Hood River County Crime Victims Assistance Program and the Coos County Protocol includes a member from the Women's Crisis Service.

2. Investigation: Each MDT includes specific procedures for investigation and victim interviews. The procedures include the responsibilities of the team members and the method of communication among the agencies involved. The procedures are fairly detailed: providing instructions on ways to minimize victim impact in interviews,

⁴⁴ Or. Rev. Stat. § 418.746 (2003).

⁴⁵ Rogan, *Supra*.

procedures for medical exams, and strategies for response. Most protocols list guidelines for investigation priorities.

3. Presentation of Cases to the Team: Each protocol states how cases will be deployed to the team. The deployment method varies, from Linn County, where the DA presents cases to the team, to Multnomah County, where a number of meetings are held weekly with different foci and a number of agencies (Hotline, DA, LEA, etc.) are able to refer cases to the team.

4. Prosecution: The DA's office is charged with the prosecution of child abuse matters and has general authority to make charging decisions. The protocols vary as to the level of detail covered in the prosecution section but each discusses the roles of the DA and law enforcement agencies as they work together to prosecute offenders. Several counties developed unique and creative protocol elements to meet the needs of the community. The Clackamas County protocol provides a different procedure for reports of domestic violence. The Wallowa County protocol distinctly identifies a procedure for allegations against school officials or regarding crimes committed on school grounds. Multnomah County has a protocol specifically for cases designated as complex: those requiring additional professional expertise and involving multiple victims, violations of fiduciary relationships, and/or extremely sensitive subject matter. Because protocols are working documents, they can evolve and change with the needs of both team members and the community.

Information shared among MDT members in the exercise of their duties is confidential and may be shared only when necessary to ensure the safe placement of a child. The statute does not require notes of minutes to be taken in an MDT meeting, but

there must be a process for an independent review of the team's action upon the completion of the investigation. Consequently, some amount of documentation is necessary to enable the independent review. All MDT meetings discussing child abuse and neglect are confidential and exempt from the public records statute.⁴⁶

c. Elements of a Successful MDT

A successful MDT has four key components: collaboration, confidentiality, effective conflict resolution, and periodic review.⁴⁷ Collaboration, which is grounded in functional interdependent relationships, is governed by the principles of trust, common mission, and effective leadership. Trust enables information sharing and allows for mutual respect among a diverse group of professionals. Trust can be built among team members by:

- Viewing all parties as equal members in designing and implementing team ideas
- Voicing and correcting common misconceptions among the participants
- Developing a relaxed and open atmosphere among members.

A common mission is the backbone of a well coordinated system. Although the participating parties will have philosophical differences, the team needs to stay focused on common goals such as prevention of child abuse, safety of children, and permanency for children. The leader of the team should encourage and foster collaboration among the team members. Usually the social services agency leads the

⁴⁶ Or. Rev. Stat §192.690 (2003).

⁴⁷ U.S. Department of Health & Human Services, Administration for Children & Families, *A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice*, <http://nccanch.acf.hhs.gov/pubs/usermanuals/foundation/index.cfm> (2003). Ells, *supra*.

team because the agency is mandated to investigate child abuse and neglect and is most aware of the family's needs.⁴⁸

The leader:

- Assures all stakeholders are represented on the team
- Manages conflict effectively
- Treats members with respect
- Identifies needs, problems and opportunities for the team
- Is able to obtain resources needed for the team.⁴⁹

Team members must be able to freely and openly share information within the MDT. However, it is essential that each member signs a confidentiality agreement in which they agree to keep confidential any information that comes to them as a member of the team. MDT members may perceive confidentiality as a barrier to teamwork, often because of a misunderstanding of the laws surrounding confidentiality.⁵⁰ The governing law is the first place to look when creating a confidentiality agreement. The Oregon MDT statute permits the team to access confidential information regarding the child and his or her caretakers on the condition that no confidential information is disclosed outside the team unless it is necessary to ensure the safe placement of the child.⁵¹

Conflict is normal and inevitable within the MDT. The way the MDT resolves conflict determines the effectiveness of the team. Research shows that people involved

⁴⁸ Rogan, *supra*.

⁴⁹ U.S. Department of Health & Human Services, Administration for Children & Families, *A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice*, <http://nccanch.acf.hhs.gov/pubs/usermanuals/foundation/index.cfm> (2003).

⁵⁰ *Id.*

⁵¹ Or. Rev. Stat. § 418.747 (2003).

in helping professions often try to avoid conflict, but avoidance is destructive because the underlying reasons for the conflict are never addressed. Team members ought to recognize the need for dealing with the source of the conflict in an effective and cooperative manner.⁵²

Periodic review ensures the team is functioning effectively. Two methods of soliciting feedback should be employed. The first method is self-evaluation, in which the team members exercise honest constructive criticism of the teams' performance. An anonymous survey is a frequently used method of self-evaluation. Self-evaluation alone is not sufficient because the team may be biased in its analysis. The team should regularly collect outside evaluations from its "customers"-- the victims, families, members of the general community, and outside agencies. It's important for the team to be aware of outside perceptions and the team should be open to entertaining suggestions from the external evaluations.⁵³

d. Challenges with MDT Approach to Investigating Adolescent Maltreatment

Many of Oregon's MDT protocols contain language and procedures which could impact how an MDT reacts to adolescent abuse and neglect. The age of the victim weighs heavily in determining whether a case is brought to the MDT, investigative procedures, risk and safety threat analysis, and determining the priority of the case. The general rule expressed in the protocols is that "typically in child physical abuse

⁵² Eils, *supra*.

⁵³ *Id.*

cases, the younger the children the higher the risk.”⁵⁴ This attitude can be dangerous because all surrounding circumstances should be considered when making case management decisions. Age of the victim should not play a disproportionate role in investigation and assessment. Every child deserves protection from abuse and neglect, and age does not equate with vulnerability.

The Multnomah County protocol identifies age as one criterion in determining which cases are “triaged”, that is staffed to determine if CARES or detective involvement is needed for sex abuse cases. Alleged physical abuse determined by high risk behavior to an *infant or toddler* is automatically discussed by the MDT. MDT committee members can bring any cases to the team for discussion, so adolescent abuse cases are not necessarily precluded from staffing. In fact, teen cases which involve sexual abuse are always referred to the MDT.⁵⁵

Age of the child also plays a role in investigation priority setting. Malheur County’s protocol sets a lower priority for cases “involving refusal to return home by an older child.” Yamhill’s and Wallowa’s protocol lists age of the child as the first factor in determining the time and type of response needed. The protocol does state that all factors constituting a significant risk of harm to a child should be considered; however, focusing on age as a key determining factor can hamper investigation response to reports of abuse of adolescents. The Sherman County protocol states that child abuse allegations containing reports of prior abuse to children four years of age or younger

⁵⁴ Multnomah County Child Abuse Protocol (2003).

⁵⁵ Interview with Miriam Green, Multnomah County Child Welfare Hotline Manger (August 2005).

should be considered emergencies. The protocol also gives special consideration to preschool children when setting priorities.

Age of the victim frequently determines the actions of the MDT. Although younger children are vulnerable and need to be protected, adolescents may be equally vulnerable given the surrounding circumstances and mental and physical development of the victim. In abuse and domestic violence cases, **older children may be at even greater risk because they frequently will intervene to protect younger victims or parents.**⁵⁶

PART 2 --- IMPROVING THE RESPONSE TO ADOLESCENT MALTREATMENT IN OREGON

I. RECOMMENDATIONS

A. Eliminating Bias

A bias against reports of adolescent maltreatment exists both nationally and within Oregon. This bias, although developed unintentionally due to a policy focus on protecting younger children from maltreatment, now serves as a roadblock to protecting adolescents. Within Oregon, DHS confirms that allegations of maltreatment in younger children are more likely to be recognized and addressed. The under representation of adolescents in Oregon's child welfare system raised public awareness and eventually led to DHS policy changes. Today DHS is focused and committed to addressing the needs of maltreated adolescents. The MDT approach to investigating child maltreatment has been successful in bringing together law enforcement, DHS, DAs, educators, and other professionals to jointly investigate cases. MDTs try to ensure

⁵⁶ Rogan, *supra*.

minimal trauma to the victim and an effective investigation in which information is shared among various agencies to determine how to best protect the child. However, the same sort of policy-based bias against adolescents is written into many of the protocols and probably plays some role at every MDT.

Training on adolescent development is a simple and effective way to combat this ingrained bias. Because teens can be unpredictable, uncooperative, or “mouthy”, it can be difficult to make a safety threat determination. It can be easier to ignore the delinquent behavior of a violent youth rather than recognize his or her behavior as a cry for help. Teens themselves often don’t report abuse because they try to please adults and are fearful of rejection and embarrassment. Adults incorrectly believe teens are capable of intervening or taking care of themselves in an abusive or neglectful situation.

Adolescent development training will dispel common myths about maltreated teens. Training will also help screeners and investigators understand what constitutes “normal” teen behavior and how to interpret that behavior when interviewing or asking questions. Once one understands the basics of adolescent development, it becomes clear that adolescents are not always capable of protecting themselves in abusive or neglectful environments. They may lack the skills to diffuse hostility and the cognitive ability to understand that maltreatment is always wrong. Professionals who make critical decisions regarding the safety and well-being of adolescents must comprehend adolescent development.

Another way to reduce bias is to acknowledge that adolescents are different and develop policies and protocols which address these differences. For MDTs, this means developing a protocol specifically tailored to address the needs of adolescents. For

DHS, the GAP assessment tool could be modified to contain an adolescent-specific section where risks unique to youth are identified.

Data collection and reporting is essential for confirming and then eliminating a bias. Both DHS and MDTs must track actions and decisions by age to see if a disproportionate number of adolescent reports are “closed at screening” or left uninvestigated. The data must also compare age of alleged victim versus the response time to determine if reports of adolescent abuse receive delayed responses. If a bias is found, the same data should be periodically monitored to ensure the bias is actively being reduced.

Training on adolescent development combined with recommended procedural changes will have a measurable positive impact on reducing bias against maltreated adolescents in the screening and investigation process.

B. Statutory Revision

The sections of ORS Chapter 419B which govern child abuse reporting, investigation and court intervention in child maltreatment cases are inconsistent and not helpful to front line workers in CPS, Child Welfare and law enforcement. The Oregon Law Commission, Juvenile Code Revision Workgroup should be asked to study and revise these sections to make them more consistent with one another and the purposes of the child abuse reporting laws and the juvenile court. Specifically, the Workgroup should be asked to provide descriptions of maltreatment for purposes of child abuse reporting that are more descriptive and less reliant on criminal code provisions. The Workgroup should also be asked to be cognizant of the needs of adolescent as well as

younger victims of maltreatment in revising these important provisions of the juvenile code.

C. Data Collection and Reporting

Age-specific data needs to be available at every stage of the assessment process. Standard management reports should break the following information out by age: the number of calls, the number of safety threats reported, the screening decision for each call, and, for cases that require further assessment, the time from call to the response. Supervisors and administrators can then get an overall picture of how screeners assess calls by age. If a bias is found, these same reporting tools can be used to show improvement in reducing the bias.

D. CPS Staff Specialization and Training

Screeners should be provided additional training on adolescent development and its impact on assessing adolescent maltreatment. Age does and should play a role in assessing safety threat because the threats to an adolescent are often different than those to a young child. Teenage girls, for example, make up the majority of sexual abuse victims.⁵⁷ Although the entire set of circumstances should be assessed in screening, it is critical to be aware of different threats that commonly affect children of different ages and respond appropriately to these threats.

CPS screeners should be trained about adolescent development and its potential to impact the screening and assessment process. At a minimum, there should be an adolescent expert on each shift who can answer questions, receive calls reporting

⁵⁷ 40.8% of female victims age 14 or older as victims of sexual abuse (*The Status of Children in Oregon's Child Protection System 2003*, Oregon Department of Human Services (2003)).

adolescent abuse and neglect, and develop custom solutions to address the adolescent's needs. This expert should also be able to identify non-traditional ways to assist teens including community partners and safety net resources.

It is fundamental for screeners to realize that delinquency and abuse often go hand in hand.⁵⁸ Abused and neglected children are 67 times more likely to be arrested as adolescents than their counterparts.⁵⁹ Screeners must recognize that violence and/or delinquent acts are often an adolescent's cry for help. While the abuse or neglect of the youth and the youth's own violent behavior may be related, the screeners should not use evidence of the youth's own behavior to cancel out concerns about abuse from an adult. It is not acceptable to discount or ignore abuse reports because of violent or delinquent behavior.

E. Age-specific GAP sections

Because adolescent abuse often takes a different form than child abuse, there should be an additional space for information in GAP for assessing risk to children age 12 and over. This section should be filled out each time an adolescent abuse report is made. The section could include adolescent-specific scenarios which would guide the screener to correctly determine the threat of harm and required response.

F. Develop an Adolescent Maltreatment MDT Protocol

It is recommended that a MDT protocol for adolescent abuse and neglect cases be developed to specifically address biases. An adolescent-specific protocol would ensure that agencies that have the resources and expertise to serve adolescents are

⁵⁸ 66% of Oregon's juvenile offenders in statewide have reported abuse (Phone Interview with Karen Andall, OYA Administrator, May 14, 2003).

⁵⁹ Child Welfare League of America, *supra*.

represented. The adolescent MDT members should have an increased knowledge and willingness to learn the particular dynamics of adolescent behavior and development.⁶⁰

Alternatively, each MDT protocol should be critically reviewed for processes and criteria which could hamper the team's ability to quickly and effectively respond to allegations of adolescent maltreatment. If the review yields evidence of a bias against teens, the team should update the protocol accordingly to eliminate the bias.

In either case, the MDT should be able to identify adolescent maltreatment victims who require services outside the scope of those traditionally provided by agencies represented at the MDT. When the needs of the youth are different than those the agencies typically provide, the MDT should utilize community partners and information networks to craft an individual service solution for the youth.⁶¹

G. Strategies for Successful Interviewing

Both CPS and Law Enforcement interviewers need to be adequately trained in interview techniques and issues for the adolescent interview. The strategies to be employed when interviewing adolescents vary based on developmental level, purpose of the interview, the adolescent's relationship with the interviewer, and the amount of stress on the adolescent.⁶² The interviewer must be trained in and utilize techniques to build rapport with the adolescent by creating a nurturing environment while keeping in mind the ways in which cognitive and moral/social development factors could impact the

⁶⁰ Rogan, *supra*.

⁶¹ Oregon is in the process of establishing a 2-1-1 network which will provides callers with information about and referrals to human services for every day needs and in times of crisis. See www.or211.org for details.(accessed August 9, 2005).

⁶² Rosado, *supra*.

interview. Angry, depressed or younger adolescents may require extra sensitivity on the part of the interviewer.

H. Follow-up on Adolescent Investigations

Given that neglect is the most common form of adolescent maltreatment and that adolescent victims of neglect are more likely to remain in the home or be returned home than younger victims of abuse or neglect, follow-up is essential to ensure the neglect does not continue.⁶³ In addition, obtaining services can be a difficult and intimidating process for adolescents who are trying to manage their own care. Consequently, follow-up checks, with the purpose of ensuring needed services are delivered, should be included in the adolescent protocol.

I. MDT and CPS Training

Although many MDT members and CPS workers receive a variety of training on team effectiveness and investigation techniques, adolescent development training is also needed. MDT and CPS staff/members who participate in adolescent case review, assessment, investigation or interview should be trained on adolescent development and how it impacts their work. The MDT statute requires training on age-appropriate investigation and interview techniques for team members. Staff/members who have a working knowledge of adolescent development will be better able to understand and properly serve adolescent victims. Trained staff/members are also at an advantage when recognizing signs of adolescent abuse which too often go un-recognized and un-

⁶³ Janice Hutchinson & Kristin Langlykke, *Adolescent Maltreatment: Youth as Victims of Abuse and Neglect* (1998).

investigated. Training will ensure that teen allegations of abuse and neglect are given the same consideration as allegations of younger child abuse.

J. Maintain MDT Funding

Each MDT counts on funding to continuously improve its MDT process. Across the state, MDTs struggled until funding was distributed to help the counties comply with the statute. Once counties received funds to establish and maintain MDTs, they were able to focus on the development of effective MDT protocols to respond to a rapidly growing number of child maltreatment reports. MDT funds are raised at the local level through criminal fines and assessments. The money is collected at the county level, administered at the state level, and is returned to the counties through various programs such as MDTs. Today MDTs are making good progress and continuously evolving to meet the needs of the local community.⁶⁴

In order for MDTs to take a leadership role in the investigation and prosecution of adolescent maltreatment, adequate funding is essential. Without sufficient funds, MDTs will be forced to make difficult choices about which cases they can afford to investigate. Given the general perception that teens can “take care of themselves” in abusive and neglectful situations, MDTs may react to insufficient funding by failing to scrutinize adolescent maltreatment cases at the same level as those of younger children. Appropriate funding is crucial to ensure that a bias against adolescent maltreatment is reduced.

K. Training of Law Enforcement and Juvenile Courts

⁶⁴ Interview with Helen Smith, *supra*.

Members of law enforcement play a critical role in the investigation and assessment of adolescent abuse and neglect. They also need training on adolescent development and the importance of responding to adolescent abuse and neglect. Similarly, juvenile courts have a major impact on adolescent cases as they enter the system. Training and education on adolescent development, the impact and risks of adolescent abuse and neglect and biases that improperly exclude adolescents from the protection of the courts need to be provided to judges and other juvenile court participants.

L. Transition and Permanency Planning

A significant number of adolescents, who are the subject of abuse and neglect reports, have prior histories of being in foster care. Many adolescents, who have been returned home or otherwise left foster care, end up in dire circumstances. Better and more thorough work needs to be done to assure adequate transition plans for adolescents in foster care. A longer period of monitoring to assure that the adolescent is not going to end up in an untenable situation is needed. Ultimately, child welfare needs to provide true permanency for children in its care regardless of their age.

II. CONCLUSION

Identifying, investigating, and addressing adolescent maltreatment in Oregon must continue to be a DHS priority. The first step in improving agency response to adolescent maltreatment is eliminating bias through training. Law enforcement, social workers, MDT members, and the juvenile courts must be aware of the common myths surrounding adolescent maltreatment and understand how to best identify and combat

this growing problem. The tools used to assess and investigate child abuse, the GAP and MDT protocols, should also identify adolescent maltreatment as a priority.

All children, regardless of age, must be protected from maltreatment.

Adolescents require additional transitional and permanency planning to ensure stable placements. Heightened awareness of adolescent maltreatment combined with updated systems and tools will enable professionals to better serve adolescent victims.

APPENDIX A: A Handout for Teens: Identifying Abuse and Neglect



Are you homeless, hungry, or scared?

Is someone else hurting you, making you upset or uncomfortable?

You may be a victim of teen abuse

You are being physically abused if you are:

- hit or pinched hard enough to leave a bruise
- burned
- bitten hard enough to break the skin
- pushed into walls or knocked to the floor
- choked, kicked, or punched

You are being sexually abused if:

- your are being touched in private parts in a way that hurts or makes you uncomfortable
- someone shows you nude pictures of people touching each other in a sexual manner
- your are forced to touch someone else's private parts
- someone takes a picture of you without your clothes on
- someone takes a picture of you touching your (or another's) private parts

You are being neglected if you are:

- hungry a lot of the time
- without food or water
- without warm clothes in the winter
- left home alone to care for yourself when you are too young
- never given hugs, compliments or told that you matter
- locked in a room for hours or days at a time
- abandoned or kicked out by your parents

You are being emotionally abused if someone who takes care of you:

- repeatedly calls you mean names
- tells you that you are worthless, stupid or "a mistake"
- makes fun of you until it hurts
- tells you that you aren't good enough
- says they wish you had never been born
- tells you that you can't do anything right

STOP THE ABUSE ■ PROTECT YOURSELF ■ GET HELP

REPORT TEEN ABUSE



To report abuse, call...

Child Welfare Branch	Local Number	Toll Free Number
Baker	541-523-6423	800-646-5430
Benton	541-757-4121 or 541-967-2085	
Clackamas	503-657-2112	800-628-7876
Clatsop	503-325-9179	800-643-4606
Columbia	503-397-3292	800-428-1546
Coos	541-756-5500 x 250	800-500-2730
Crook	541-447-6207	
Curry	541-756-5500 x 250	800-257-1385
Deschutes	541-388-6161	866-249-9263
Douglas	541-440-3373	800-305-2903
Gilliam/Wheeler	541-384-4252	
Grant	541-575-0728	877-877-5081
Harney	541-573-2086	877-877-5450
Hood River	541-386-2962	
Jackson	541-776-6120	
Jefferson	541-475-2292	
Josephine	541-474-3120	800-930-4364
Klamath	541-883-5570	
Lake	541-947-2273	888-811-4201
Lane	541-686-7555	866-300-2782
Lincoln	541-265-8557	800-305-2850 or 866-303-4643
Linn	541-967-2085 or 541-967-2085	800-358-2208
Malheur	541-889-9194	800-445-4273
Marion	503-378-6704	800-854-3508 x 2402
Morrow	541-481-9482	
Multnomah County - Child Abuse Hotline	503-731-3100	800-509-5439
Polk	503-623-8118 x 266	
Tillamook	503-842-5571	877-317-9911
Umatilla/Hermiston/Pendleton	541-276-9220	
Union	541-963-8573 x 286	
Wallowa	541-426-4558	
Wasco/Sherman	541-298-5136	800-388-7787
Washington	503-681-6917	800-275-8952
Yamhill	503-472-4634 x 240	800-822-3903

If you need additional assistance, contact the Juvenile Rights Project, Inc. HelpLine at 503-232-2540x246 or 1-866-608-1212.

APPENDIX B: GAP Screen Shots

(to obtain copies, please contact Amy Miller, amym@jrplaw.org)

APPENDIX C: Full Text of Relevant Provisions of ORS Chapter 419B Juvenile Code

Full Text of Relevant Provisions of ORS Chapter 419B Juvenile Code

419B.090 Juvenile court: jurisdiction: policy. (1) The juvenile court is a court of record and exercises jurisdiction as a court of general and equitable jurisdiction and not as a court of limited or inferior jurisdiction. The juvenile court is called "The _____ Court of _____ County, Juvenile Department."

(2)(a) It is the policy of the State of Oregon to recognize that children are individuals who have legal rights. Among those rights are the right to:

- (A) Permanency with a safe family;
- (B) Freedom from physical, sexual or emotional abuse or exploitation; and
- (C) Freedom from substantial neglect of basic needs.

(b) Parents and guardians have a duty to afford their children the rights listed in paragraph (a) of this subsection. Parents and guardians have a duty to remove any impediment to their ability to perform parental duties that afford these rights to their children. When a parent or guardian fails to fulfill these duties, the juvenile court may determine that it is in the best interests of the child to remove the child from the parent or guardian either temporarily or permanently.

(c) The provisions of this chapter shall be liberally construed to the end that a child coming within the jurisdiction of the court may receive such care, guidance, treatment and control as will lead to the child's welfare and the protection of the community.

(3) It is the policy of the State of Oregon to guard the liberty interest of parents protected by the Fourteenth Amendment to the United States Constitution and to protect the rights and interests of children, as provided in subsection (2) of this section. The provisions of this chapter shall be construed and applied in compliance with federal constitutional limitations on state action established by the United States Supreme Court with respect to interference with the rights of parents to direct the upbringing of their children, including, but not limited to:

- (a) Guide the secular and religious education of their children;
- (b) Make health care decisions for their children; and
- (c) Discipline their children.

(4) It is the policy of the State of Oregon, in those cases not described as extreme conduct under ORS 419B.502, to offer appropriate reunification services to parents and guardians to allow them the opportunity to adjust their circumstances, conduct or conditions to make it possible for the child to safely return home within a reasonable time. Although there is a strong preference that children live in their own homes with their own families, the state recognizes that it is not always possible or in the best interests of the child or the public for children who have been abused or neglected to be reunited with their parents or guardians. In those cases, the State of Oregon has the obligation to create or provide an alternative, safe and permanent home for the child.

(5) The State of Oregon recognizes the value of the Indian Child Welfare Act, 25 U.S.C. 1901 to 1923, and hereby incorporates the policies of that Act.

419B.005 Definitions. As used in ORS 418.747, 418.748, 418.749 and 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163.

(D) Sexual abuse, as defined in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other

conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in a place where methamphetamines are being manufactured.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Public or private official" means:

(a) Physician, including any intern or resident.

(b) Dentist.

(c) School employee.

(d) Licensed practical nurse or registered nurse.

(e) Employee of the Department of Human Services, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health and developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Licensed clinical social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Naturopathic physician.

(o) Licensed professional counselor.

(p) Licensed marriage and family therapist.

(q) Firefighter or emergency medical technician.

(r) A court appointed special advocate, as defined in ORS 419A.004.

(s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

(t) Member of the Legislative Assembly.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department.

419B.007 Policy. The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports.

419B.010 Duty of officials to report child abuse: exceptions: penalty. (1) Any public or private

official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy or attorney shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295. An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client, if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense.

419B.015 Report form and content: notice to law enforcement agencies and local office of Department of Human Services. A person making a report of child abuse, whether voluntarily or pursuant to ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. Such reports shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator. When a report is received by the department, the department shall immediately notify a law enforcement agency within the county where the report was made. When a report is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report is received by a law enforcement agency, the agency shall immediately notify the local office of the department within the county where the report was made.

419B.020 Duty of department or law enforcement agency receiving report: investigation: notice to parents: physical examination: child's consent. (1) Upon receipt of an oral report of child abuse, the Department of Human Services or the law enforcement agency shall immediately:

(a) Cause an investigation to be made to determine the nature and cause of the abuse of the child; and

(b) Notify the Child Care Division if the alleged child abuse occurred in a child care facility as defined in ORS 657A.250.

(2) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by written report the local office of the department. The department shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(3) If a child is taken into protective custody by the department, the department shall promptly make reasonable efforts to ascertain the name and address of the child's parents or guardian.

(4)(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.

(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.

(c) The department also shall make a reasonable effort to notify the noncustodial parent of the information required by paragraph (a) of this subsection in a timely manner.

(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the department, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

(5) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.

(6) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (5) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

419B.025 Immunity of person making report in good faith. Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

419B.028 Photographing child during investigation: photographs as records. (1) In carrying out its duties under ORS 419B.020, any law enforcement agency or the Department of Human Services may photograph or cause to have photographed any child subject of the investigation for purposes of preserving evidence of the child's condition at the time of the investigation.

(2) For purposes of ORS 419B.035, photographs taken under authority of subsection (1) of this section shall be considered records.

419B.030 Central registry of reports. (1) A central state registry shall be established and maintained by the Department of Human Services. The local offices of the department shall report to the state registry in writing when an investigation has shown reasonable cause to believe that a child's condition was the result of abuse even if the cause remains unknown. Each registry shall contain current information from reports catalogued both as to the name of the child and the name of the family.

(2) When the department provides specific case information from the central state registry, the department shall include a notice that the information does not necessarily reflect any subsequent proceedings that are not within the jurisdiction of the department.

419B.035 Confidentiality of records: when available to others. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and are not accessible for public inspection. However, the Department of Human Services shall make records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Child Care Division for certifying, registering or otherwise regulating child care facilities; and

(g) The Office of Children's Advocate.

(2) The Department of Human Services may make reports and records available to any person,

administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection and subsection (1) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(3) A law enforcement agency may make reports and records available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect.

(4) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (5)(b) of this section.

(5)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician in this state, as authorized by subsections (1) to (4) of this section, shall be kept confidential by the agency, department, board or physician. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (2) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection, a law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (4) of this section to each other and to law enforcement, community corrections, corrections and parole agencies of other states for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(6) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (4) of this section may not release any information not authorized by subsections (1) to (5) of this section.

(7) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181.010.

(8) A person who violates subsection (5)(a) or (6) of this section commits a Class A violation.

419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse. (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to registered clinical social workers and the husband-wife privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other.

419B.045 Investigation conducted on public school premises: notification: role of school personnel. If an investigation of a report of child abuse is conducted on public school premises, the school administrator shall first be notified that the investigation is to take place, unless the school administrator is a subject of the investigation. The school administrator or a school staff member designated by the administrator may, at the investigator's discretion, be present to facilitate the investigation. The Department of Human Services or the law enforcement agency making the

investigation shall be advised of the child's disabling conditions, if any, prior to any interview with the affected child. A school administrator or staff member is not authorized to reveal anything that transpires during an investigation in which the administrator or staff member participates nor shall the information become part of the child's school records. The school administrator or staff member may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

419B.050 Authority of health care provider to disclose information: immunity from liability. (1)

Upon notice by either a law enforcement agency or the Department of Human Services that a child abuse investigation is being conducted under ORS 419B.020, a health care provider may permit the law enforcement agency or the department to inspect and copy medical records, including, but not limited to, prenatal and birth records, of the child involved in the investigation without the consent of the child, or the parent or guardian of the child. A health care provider who in good faith disclosed medical records under this section is not civilly or criminally liable for the disclosure.

(2)(a) As used in this section, "health care provider" means a person licensed by one of the following agencies, or any employee of a person licensed by one of the following agencies:

- (A) State Board of Examiners for Speech-Language Pathology and Audiology;
- (B) State Board of Chiropractic Examiners;
- (C) State Board of Clinical Social Workers;
- (D) Oregon Board of Licensed Professional Counselors and Therapists;
- (E) Oregon Board of Dentistry;
- (F) State Board of Denture Technology;
- (G) Board of Examiners of Licensed Dietitians;
- (H) State Board of Massage Therapists;
- (I) State Mortuary and Cemetery Board;
- (J) Board of Naturopathic Examiners;
- (K) Oregon State Board of Nursing;
- (L) Board of Examiners of Nursing Home Administrators;
- (M) Oregon Board of Optometry;
- (N) State Board of Pharmacy;
- (O) Board of Medical Examiners;
- (P) Occupational Therapy Licensing Board;
- (Q) Physical Therapist Licensing Board;
- (R) State Board of Psychologist Examiners; or
- (S) Board of Radiologic Technology.

(b) For the purposes of this section, "health care provider" includes a health care facility as defined in ORS 442.015 and emergency medical technicians certified by the Department of Human Services.

419B.100 Jurisdiction: bases: Indian children. (1) Except as otherwise provided in subsection (6) of this section and ORS 107.726, the juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

- (a) Who is beyond the control of the person's parents, guardian or other person having custody of the person;
- (b) Whose behavior is such as to endanger the welfare of the person or of others;
- (c) Whose condition or circumstances are such as to endanger the welfare of the person or of others;
- (d) Who is dependent for care and support on a public or private child-caring agency that needs the services of the court in planning for the best interest of the person;
- (e) Whose parents or any other person or persons having custody of the person have:
 - (A) Abandoned the person;
 - (B) Failed to provide the person with the care or education required by law;
 - (C) Subjected the person to cruelty, depravity or unexplained physical injury; or
 - (D) Failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person;
- (f) Who has run away from the home of the person; or
- (g) Who has filed a petition for emancipation pursuant to ORS 419B.550 to 419B.558.

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The practice of a parent who chooses for the parent or the child of the parent treatment by prayer or spiritual means alone shall not be construed as a failure to provide physical care within the meaning of this chapter, but shall not prevent a court of competent jurisdiction from exercising that jurisdiction under subsection (1)(c) of this section.

(4) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(5) The court shall have no further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

(6)(a) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where the jurisdiction is otherwise vested in the state by existing federal law.

(b) Upon the petition of either parent, the Indian custodian or the Indian child's tribe, the juvenile court, absent good cause to the contrary and absent objection by either parent, shall transfer a proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, to the jurisdiction of the tribe.

(c) The juvenile court shall give full faith and credit to the public acts, records and judicial proceedings of an Indian tribe applicable to an Indian child custody proceeding to the same extent that the juvenile court gives full faith and credit to the public acts, records and judicial proceedings of any other entity