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January 31, 2018

NOTICE OF CLAIM UNDER A.R.S. §. 12-821.01

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State of Arizona Employees/DCS/CPS including the following:

Christine McGuire
Norma Lewis
Veronica Castillo
Kirk Stevens
Christina Delgado
Candice Winters
Kaila Kerley
Jessica Blackburn
Linda Tucker Church
George Stevens

Jane and John Does 1-15
Employees of CPS/DCS
State of Arizona

Re: Notice of Claim by John Doe¹

Dear Sirs/Madams:

This letter serves as John Doe's Notice of Claim pursuant to A.R.S. § 12-821.01 against the State of Arizona, Child Protective Services ("CPS"), now called DCS, the Arizona Department of Child Safety and Family Services ("DCS"), the Arizona Department of Economic Security (DES), and the individual DCS caseworkers listed above and those whose names are not known at this time. This letter is subject to Ariz. R. Evidence, 408.

The facts, supporting documents, case law, the nature of John Doe's damages' and the specific amount for which the claim can be settled are set forth below.

I. FACTS PROVIDING BASIS FOR CLAIMS

The State of Arizona has for years been fully aware of the inadequate safety measures of Child Protective Services and, later, its successor, the Department of Child Safety. Children taken

¹ Counsel believes that the parties served with this Notice of Claim are aware of the true identity of John Doe. Counsel are not providing John Doe's true name for the sake of his privacy. If the parties are uncertain of Mr. Doe's identity please contact us and we will provide that information under separate cover.

from problem homes are the most vulnerable children in the State. These children, like John Doe, after suffering trauma and abuse in their own home, are taken into the legal custody of the State, ostensibly to protect them from further abuse. However, these children then suffer even more abuse once in the “care” of the State. (Exhibit A - class action lawsuit against DCS) Former Arizona Governor Jan Brewer, admitted publicly in 2014 “that the Arizona’s child welfare system is broken, impeded by years of structural and operational failures.” (Exhibit B - news article) The failure of the State to protect the children in their care has been well documented in the reports commissioned by the State. (Exhibit C – Report “In Harms Way”)

John Doe is a victim of the State of Arizona’s failed child protection practices and policies. John Doe, who is now 18 years old, suffered over 12 years of shocking physical and sexual abuse because of the State’s refusal to protect him. John Doe was born in September of 1999 and before his fourth birthday was placed in foster care. The Frodshams were approved by the State to have John Doe in their home in 2004 and John Doe was subsequently adopted by David and Barbara Frodsham in 2012. The Frodshams were licensed foster parents with the State of Arizona from 2002 to January 2015. The Frodsham license was not suspended until David Frodsham was arrested at the DES office for felony drunk driving with toddlers in the vehicle. (Exhibit D – David Frodsham DUI indictment). The State and its employees ignored actual notice of the abuse of John Doe and numerous warning signs that the Frodsham home was dangerous.

The State did not remove John Doe until ICE, a federal agency within the Department of Homeland Security, arrested David Frodsham for operating a pornographic pedophile ring based in the home. ICE identified John Doe as a victim of Frodsham’s pedophilia. John Doe suffered sexual, physical and emotional abuse for over 12 years in this home, despite numerous red flags of abuse and neglect. This abuse was no secret to CPS/DCS and well documented yet no investigations were undertaken (Exhibit E – DCS records of abuse). The CPS/DCS employees listed above are the ones who are known by us at this time, as the records of DCS and CPS as well as the licensing agencies have not been released, despite requests. Suffice it to say, however, the agencies can readily identify these individuals. Additional facts and employees will be added once John Doe’s files are released to him.

David Frodsham was convicted and sentenced to 17 years in prison in December of 2016 for child sexual abuse and pornography, with John Doe as one of the victims. (Exhibit F – David Frodsham plea agreement and sentencing order) David Frodsham utilized the State of Arizona and the foster care system to funnel innocent, vulnerable children into his home, so he could run a pedophile ring. John Doe was sexually and physically abused by David Frodsham countless times both inside and outside the home while Frodsham’s wife, Barbara witnessed this abuse, and physically abused John Doe herself. Mr. Frodsham also acted as John Doe’s pimp, prostituting John Doe to other men, for their sexual enjoyment, and for money for himself., Frodsham often participated in these sexual meetups. Frodsham helped enable a network of pedophiles in the Sierra Vista area and these men participated in further sexual abuse against John Doe. (Exhibit G and H - indictments of Randall Bischak and Anthony Savage)

Barbara Frodsham neglected John Doe terribly, and physically and emotionally abused him as well. Barbara knew the sexual abuse was occurring, at times walking in the room as it was happening, yet took no steps to stop it. Mrs. Frodsham routinely beat John Doe and blamed him

for the abuse heaped on him. Barbara did not buy John Doe clothes or feed him, and screamed at him every time he tried to complain or protect himself, often beating him viciously. It was obvious to all, including the State DCS employees that Barbara Frodsham hated John Doe. The Frodshams forced John Doe to live outside much of the time. While they went to work they locked John Doe out of their home and left him with a bike to travel to a convenience store to use the restroom. This neglect and abuse was documented by the State and its employees. The foster and other children, including John Doe, were forced to eat hot sauce as punishment, handcuffed to the bed all night, locked outside the home, and locked in closets. John Doe and the other boys were beaten with fists, brooms, belts and other objects to the extent that medical care was frequently required. CPS/DCS did not investigate this physical abuse. It was openly noted in DCS records that Barbara had a different demeanor and attitude toward the boys in the home as opposed to the girls. Barbara was “jealous” of the sexual attention the boys received from her husband, and punished them for it. (Exhibit E - DCS records documenting abuse)

CPS/DCS just turned a blind eye, and the abuse continued unabated. Barbara Frodsham kept up a steady stream of complaints about John Doe to everyone, including DCS, and made him the scapegoat for any and all problems. The State simply put John Doe on medication, which was not necessary and harmed him even more. The State and its employees wrongfully medicated John Doe, ignored his complaints and essentially paid the Frodshams to continue the abuse. John Doe’s problems should have triggered action by the State to help John Doe. When a child acts out so frequently, and is truant, on medication, getting “special help” to overcome anger and acting out, that is a glaring red flag something is wrong in the home.

The State had access to over thirty-eight police reports from the Frodsham household, from 2002 to early 2016, (all prior to the arrest of David Frodsham for sex abuse) The State should have reviewed these as part of their licensing process of the foster/adoptive parent program. John Doe complained to CPS/DPS over sixteen times and nothing was done. Even more shocking, there were at least 10 abuse and neglect complaints documented by CPS/DCS between 2002 to 2015. Children in abusive homes rarely can report the abuse, as if they do they are beaten again. This is exactly what happened to John Doe, he would complain to CPS or call the police, and what would result was a beating from Barbara and/or David. This is exactly why CPS/DCS should have intervened, examined John Doe’s injuries, and taken John Doe to a place where he would not be afraid of retaliation by his abusers. John Doe was completely vulnerable to the manipulation and neglect of Barbara and David Frodsham, and helpless to protect himself from their physical, emotional and sexual abuse.

It was not just the police reports, DCS documentation of abusive parenting, neglect, constant complaints, and acting out that should have triggered the State to remove John Doe. There was additional information about David Frodsham that indicated he was an unsuitable foster parent, much less an adoptive parent. David Frodsham was assigned as a deputy commander with the Department of Defense in Afghanistan. He only served for a brief period, as he was kicked out and released from duty, and told he could not return because of his “sexual harassment” behavior and an assessment by the military that he had an unalterable personality disorder. For a deputy commander to be removed from duty in Afghanistan and told never to return for service is glaring evidence that David had negative personality qualities which could easily make him an

unfit parent. The military investigated his behavior and upheld the inappropriate sexual behavior findings. The investigator stated,

“I recommend the unit keep Mr. Frodsham resigned out of BSG permanently. Bringing him back to the unit will only cause further tensions. The ability of Mr. Frodsham to be rehabilitated is completely up to him. I believe this inappropriate conduct has been part of Mr. Frodsham’s personality for some time. The Army has articulated its zero-tolerance policy. I am convinced that Mr. Frodsham is aware of what constitutes sexual harassment, because he previously held a position in Equal Opportunity, as he stated in his interview. Still he chose to violate said policy

I recommend making this misconduct a official matter of record and take disciplinary action under Chapter 75 of Title 5/AFI 36-704 Discipline and Adverse Actions. I recommend the command administratively punish Mr. Frodsham with reprimand and refer member to home unit.”

A review of these records by a psychologist who does assessments of sex offenders in the military believes that the coded language of the discharge indicates the underlying reason for his removal was sexual abuse of boys in Afghanistan. It is well documented that in Afghanistan, abuse of young boys is a serious problem for the U.S. military. (Exhibit H - news article re military and abuse)

Sierra Vista is a small “one company” town. David Frodsham let everyone know he had an important position in the military. Everyone knew he was a heavy drinker who was aggressive, loud, and belligerent. Frodsham bullied everyone into believing that because he was employed by the military with a high ranking and top security clearance, he could do whatever he pleased. Although he was deemed unfit to serve in Afghanistan, a war zone, due to sexual misbehavior and personality disorders, was constantly having domestic disturbances in the home, police reports on his children and family, in addition to other foster children running away and accusing him of abuse, DCS deemed the Frodsham fit parents, licensed them, and allowed this family to profit financially by physically and sexually abusing children for over 12 years.

According to federal and State prosecutors, more cases are expected to be filed involving the pedophile ring operated by David Frodsham. ICE seized videos made by David Frodsham of a 4-year-old girl being penetrated and screaming for her “mommy”. This victim could be one of the children in the Frodsham home. The biological mother of a 4-year-old girl had her child placed in the Frodsham home and complained to the State that her little girl was suffering from severe urinary tract infections because she was being sexually abused. The State’s response was to accuse this mother of making false allegations. No investigation of the Frodshams was done based on this mother’s allegations. Frodsham’s presentence report details that David Frodsham was talking with another pedophile about how 4-year-olds are “tasty”.

If the Frodshams were the biological parents of John Doe, he would have been removed based on these complaints and allegations, and placed in a group home. Instead, the State left John Doe in the foster/adoptive home, and the Frodshams received a monthly stipend from the State to

abuse him. The State ignores abuse in foster and adoptive homes, yet immediately removes children from biological parents for much lesser reasons. This policy and practice resulted in unchecked abuse and permanent harm to children, including John Doe.

The State of Arizona and the CPS caseworkers listed above (and others yet to be identified) failed to prevent the abuse of John Doe by the following pattern and practices and omissions and actions:

- Failing to properly investigate and supervise the placement of John Doe in the foster and adoptive home.
- Failing to provide and follow proper policies to protect John Doe, including investigating, supervising, and evaluating John Doe's complaints, the reports of abuse to DCS, and the domestic violence situations at the home.
- Failing to listen to and investigate the warnings about the dangers in the home.
- Failure to heed the warnings of the biological mother of a foster child in the home about sexual abuse of her own child in the household.
- Failure to take notice of the numerous police reports, the drunken behavior of David Frodsham, the expulsion of David Frodsham for sexual harassment from his military posting, the constant problems and complaints coming from the home.
- Failure to take action on their admitted knowledge of the obvious abuse of chaining John Doe to the bed all night, yet allowing the adoption to go through.
- The named actors and the State of Arizona were grossly negligent and deliberately indifferent in their negligent policies and improper implementation of their policies by a widespread failure to conduct investigations of reports that children have been maltreated while in State foster care custody, a severe shortage of family foster homes, and a widespread failure to engage in basic child welfare practices.
- The State of Arizona had a pattern and practice of ignoring abuse and neglect of the children in their care, and a pattern and practice of failing to properly investigate and license foster and adoptive homes.
- The failure of the State of Arizona in licensing the Frodshams as foster and adoptive parents, and failing to revoke their license despite being notified and having access to abuse and neglect allegations from all sources. This includes the failure of the State to properly review the process the licensing agencies use to investigate families, and failure to be involved in the licensing of foster and adoptive parents.
- There were numerous deliberate and negligent failings of the State in this case, as despite constant DCS presence and reports and complaints, the Frodshams were allowed to traffic their children for sex and pornography, abuse and beat the children in horrific ways, and yet blame it all on the children. The State assumed care and supervision of this foster and adoptive home, and did nothing to protect the innocent children they placed in harm's way. The standard to remove the children is the same for foster and adoptive children as biological children, yet the State failed to implement these safeguards. Once the children were removed, the foster and adoptive homes were not monitored, investigated or supervised for abuse

The State's refusal to protect John Doe resulted in him suffering years of horrific sexual, physical, and emotional abuse. John Doe has physical scars from the abuse, but the emotional damage he has suffered, and will continue to suffer is permanent and devastating. As a child John

Doe would self-mutilate, act out, and contemplate suicide in order to escape the traumas he endured. John Doe had no love or care during his childhood, was shackled, beaten, thrown outside to forage, sexually abused, sold as a sex toy, and yet was told he was the one to blame for his own abuse. This torture for the duration of his childhood is difficult to even imagine. John Doe cannot yet escape these nightmares, as John Doe is the named victim in many additional criminal cases. This means John Doe will have to testify against his perpetrators and be identified and relive those horrendous experiences; he will never be able to escape. Every time ICE obtains new pornographic videos that involve John Doe, he has to be notified. The fact that these images are out there forever creates emotional damage that is beyond measure. John Doe struggles with leaving the house as he feels that others know about the crimes enacted against him or, even worse, that there are more predators waiting to abuse him or get rid of him as a witness. Most of the predators are in the military in Sierra Vista with top secret security clearances. John Doe reasonably believes they have the ability to escape retribution and could harm him. John Doe understandably has no faith in any institution or government agency, as it was the government entities which ignored his pleas for help, facilitated his abuse, and called him a liar. Nothing can ever repair the physical and emotional damage that John Doe suffered. John Doe is deprived of any modality of treatment to heal his emotional wounds, as John Doe has no faith in therapeutic treatment, as all of the State's institutions failed him.

Because of the gross negligence and deliberate indifference to the welfare of John Doe, he suffered horrific, sexual abuse, physical abuse and permanent and severe emotional injuries. David Frodsham has been sentenced to almost two decades of prison for this abuse of John Doe, but John Doe will suffer a lifetime of mental anguish. John Doe has already endured 12 years of abuse as a prisoner in the Frodsham home, and will have to live the rest of his adult life reliving these memories of abuse. John Doe will never escape this legacy of abuse he suffered as a result of the State's negligence and deliberate indifference to his plight.

II. LAW SUPPORTING CLAIMS

The Defendants are liable under numerous State and federal law claims, including, Negligence, Intentional Infliction of Emotional Distress, Gross Negligence, Negligence Per Se, Breach of Fiduciary Duty, Negligent Failure to enact proper policies and procedures to protect foster and adoptive children, and breach of numerous existing State statutes and regulations designed to protect John Doe. The State and its employees violated John Doe's constitutional rights to privacy, liberty interests, due process, and the right to be free from abuse, neglect and child sex trafficking.

The actions of the State, DES/CPS, and other individuals were grossly negligent and done with deliberate indifference to the safety of the children entrusted in their care. The State, DES/CPS, employees above and individuals to be named, knew that there was a statewide failure to comply with safety standards, and that investigation and supervision of foster and adopting families were being addressed in a negligent and sub-standard manner. The State ignored the evidence in front of it, ignored the red flags, violated the basic duties of training, supervision, and investigation of the foster homes and adoptive parents, all of which harmed John Doe, a helpless, vulnerable child.

The State, DCS/CPS and various caseworkers and supervisors had the obligation and fiduciary duty to protect John Doe when they placed him in the Frodsham home. There were obvious signs

and warnings that the Frodsham home was not safe, and the CPS/DCS workers were fully aware of these problems yet chose to ignore them. John Doe's constitutional rights (indeed, basic human rights) to reasonable safety and freedom from harm were violated while in the care of the State. John Doe's due process rights were violated by the State's failure to follow its own statutory and mandated rules and regulations to investigate the allegations of neglect and abuse, the failure of the State to promulgate proper rules and regulations to protect children, and by the failure of the State to follow properly license, or to refuse to license or revoke the license of the Frodshams as foster and adoptive parents. A social worker's failure to exercise professional judgment in the placement and monitoring of a child in State care subjects the worker to individual liability under 42 U.S.C. § 1983. *Weatherford v. State of Arizona*, 81 P.3d 320, 206 Ariz. 529 (2003).

Titles 8 and 36 of the Arizona statutes set out the licensing and care requirements that the State failed to follow. Also, the Arizona Administrative Code sets out the standard of care for the investigation, licensing, monitoring, supervision and placement of children in their care, and the State failed to comply with these mandated rules. As a result of this failure to comply with even the basic standards of care set out in statute and regulation, John Doe and many others have suffered severe injury. The regulations themselves did not provide a safe framework to protect the children. The State's own policies and practices were negligent and deliberately indifferent to the welfare of the children in their care, including John Doe. The State employees listed above (and likely others who will be identified) knew or should have known that John Doe should have been removed, and knew or should have known the home was dangerous and damaging John Doe. The State, DES, and DCS by the acts of their employees neglected to perform their required duties. The actions of DES, DCS and the State and the employees of the State listed above were grossly negligent and caused severe and permanent damage to John Doe. John Doe is entitled to damages for emotional distress, physical injury, future damages, attorney fees, and punitive damages both under State common law and 42 U.S.C. §1983 against the above the above-named entities and all of the named individuals.

The State is still liable for the acts of the Frodshams after John Doe was adopted, as they were still receiving calls about his behavior and complaints from John Doe, and supposedly investigating these matters after the adoption. The State has a duty to protect any child that is the subject of abuse or neglect complaints or suspicions. The State created the danger of abuse and molestation that John Doe would not have faced had the State adequately protected him as a result of the repeated complaints and problems that they were aware of prior to the adoption, while he was still a foster child. The State is still liable for the abuse John Doe suffered after the adoption. *Tamas v Department of Social & Health Services*, 630 F.3d 833 (2010 9th Cir)

III. SPECIFIC AMOUNT FOR WHICH JOHN DOE WILL SETTLE HIS CLAIM.

John Doe wants to change the way the DCS operates, he wants to send a message to the State of Arizona to protect the children in their care. John Doe is willing to resolve his claims against The State of Arizona, DCS, Arizona Department of Economic Security of Children, Youth Families, and the individual DCS caseworkers named and those whose names are not known at this time for the following amount, \$15,000,000. John Doe's childhood was destroyed. John Doe suffered years of torture, and his future life will be forever marred by the abuse he suffered, and the ongoing

criminal cases he will have to endure as a victim/witness. Arizona must change and do something to protect its children. These stories of abuse are all too familiar here in Arizona.

Sincerely,

Lynne M. Cadigan

EXHIBIT A

Class action lawsuit against
Arizona DCS

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

B.K. by her next friend Margaret Tinsley;
C.P. and B.T. by their next friend Jennifer
Kupiszewski; A.T.; A.C-B; M.C-B; J.C-B;
D.C-B; J.M. and J.C. by their next friend
Susan Brandt, for themselves and those
similarly situated,

Plaintiffs,

v.

Gregory McKay, in his official capacity as
Director of the Arizona Department of Child
Safety; Cara M. Christ, in her official capacity
as Director of the Arizona Department of
Health Services; and Thomas J. Betlach, in his
official capacity as Director of the Arizona
Health Care Cost Containment System,

Defendants.

William Kapell (admitted *pro hac vice*)
Julia L. Davis (admitted *pro hac vice*)
Rachel B. Nili (admitted *pro hac vice*)
Adriana T. Luciano (admitted *pro hac
vice*)

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) No. 2:15-cv-00185-PHX-ROS

)
)
) **SECOND AMENDED COMPLAINT**
) **FOR INJUNCTIVE AND**
) **DECLARATORY RELIEF AND**
) **REQUEST FOR CLASS ACTION**

) (Assigned to the Honorable Roslyn
) O. Silver)

1 Plaintiffs, by their undersigned attorneys, bring this civil action for declaratory and
2 injunctive relief, and allege as follows:

3 INTRODUCTION

4 1. This is a civil rights class action brought by the Named Plaintiffs, children in
5 Arizona state foster care custody, on behalf of themselves, a general class of children who
6 are or will be placed in such custody following reports that they have suffered child abuse
7 or neglect, and certain subclasses of these children.

8 2. Plaintiffs are among the State's most vulnerable citizens. Through no fault of
9 their own, they find themselves in the legal custody of the State after having already
10 suffered the trauma of being abused or neglected by their own families. Plaintiffs seek
11 declaratory and injunctive relief to end certain child welfare policies and practices
12 described herein exposing them to yet further physical and emotional harm and
13 unreasonable risk of harm while in the State's care.

14 3. On May 29, 2014, legislation was enacted giving responsibility for the state's
15 child welfare operations to the state Department of Child Safety ("DCS") and removing
16 such responsibility from the state Department of Economic Security ("DES"). As of May
17 29, 2014, DCS, which was established as an independent agency, is legally responsible for
18 managing the state's child welfare system.

19 4. Plaintiffs name Gregory McKay, the Director of DCS, as a defendant. Defendant
20 McKay, who is sued solely in his official capacity, directly and indirectly controls and is
21 responsible for the policies and practices of DCS, including those set forth herein.

22 5. Plaintiffs also name Cara M. Christ, M.D., the Director of the state Department
23 of Health Services ("DHS"), as a defendant. DHS is responsible for providing mental and
24 behavioral health services to children in Arizona state foster care custody. Defendant
25 Christ, who is sued solely in her official capacity, directly and indirectly controls and is
26 responsible for the policies and practices of DHS, including those set forth herein.

27 6. Plaintiffs also name Thomas J. Betlach, the Director of the Arizona Health Care
28 Cost Containment System ("AHCCCS"), as a defendant. AHCCCS is responsible for

1 administering and supervising the Medicaid program in Arizona. Defendant Betlach, who
2 is sued solely in his official capacity, directly and indirectly controls and is responsible for
3 the state's compliance with Medicaid's statutory and regulatory requirements.

4 7. Over the past several years, while foster care rates across the nation have been on
5 the decline, Arizona has experienced a dramatic increase in the number of children in state
6 foster care. From 2003 to 2012, the number of children in the State's foster care custody
7 nearly doubled. More recently, Arizona's foster care population grew from 10,207 as of
8 March 31, 2010 to 15,037 as of September 2013, a 47.3% increase. The number of
9 children in out-of-home care grew by another 10% from February 2013 to February 2014.
10 As of September 30, 2014, there are 16,990 children in state foster care custody who have
11 been placed in out-of-home care.

12 8. This huge growth in the state's foster care population has been fueled by
13 extensive state budget cuts to important support services that had previously helped keep
14 families together. In particular, state funding for DES's contracts with community-based
15 providers who offered in-home services to children, aimed at making removal of children
16 into foster care unnecessary, was cut in half in recent years, from \$43 million in fiscal year
17 2008 to under \$22 million in fiscal year 2012.

18 9. These cuts followed the state's termination of its Family Builders program in
19 2004, which had provided family-centered assessments, case management, and services for
20 families with children deemed to be at low or only potential risk of being abused or
21 neglected.

22 10. According to the Arizona Chapter of the American Academy of Pediatrics
23 "[c]uts to DES family support services including child care assistance, housing assistance,
24 substance-abuse treatment and job training for families has resulted in a 40% increase in
25 the number of children who needed to be placed in foster care since 2009 and these
26 children are staying in foster care longer because their parents are not provided with the
27 services they need."
28

11. As former Governor Brewer publicly acknowledged in 2014, the Arizona “child welfare system is broken, impeded by years of structural and operational failures.” Defendants DCS and DHS (collectively the “Defendants”) are legally responsible for overseeing this “broken” system.

12. Defendants are well aware that the following structural and operational failures continue to plague the state’s child welfare system:

- **A severe shortage in and inaccessibility of physical, mental and behavioral health services available to children in state care.** As a result, far too many children in state foster care custody do not receive the health care services they desperately need and all children in state care are subject to an unreasonable risk that they will suffer physical and emotional harm and deterioration while in the state’s care.
- **A widespread failure to conduct timely investigations of reports that children have been maltreated while in state foster care custody.** As a result of the state’s deficient investigation practices, children in state foster care custody are placed at an undue risk of suffering physical and emotional harm while in state care.
- **A severe and sustained shortage of family foster homes.** As a result of this shortage, children in state foster care are emotionally harmed and subjected to an unreasonable risk of harm by being placed far from their families and communities, separated from their siblings, and forced to experience disruptive school changes.
- **A widespread failure to engage in basic child welfare practices aimed at maintaining family relationships, such as placing siblings together, placing children with their biological parents on a trial reunification basis, coordinating visits between children in state foster care and their biological families, and having caseworkers make regular visits with the children’s biological parents to monitor progress toward family reunification.** These failures subject children in state foster care to an unreasonable risk of suffering emotional harm while in state care. Moreover, as a result of these deficiencies, children are subjected to unreasonable delays in being reunified with their families, causing them to suffer further emotional harm.

13. The state child welfare agency and DHS have failed to remedy these ongoing failures.

14. Moreover, Arizona officials have long been aware of these deficiencies and harms. As far back as 2003, the Maricopa County Attorney’s Office released a report on the state’s child welfare system, *In Harm’s Way*, detailing the system’s deficiencies. Among its findings, the report identified a shortage of foster homes and stated that “[p]art

1 of the reason many feel that children stay in a ‘risky’ situation is the inability to place them
2 elsewhere.” The report concluded that the state’s child welfare system was “overloaded
3 without the proper resources to ensure the safety of all children.”

4 15. That same year, then Governor Janet Napolitano acknowledged that “[t]he
5 system for protecting Arizona’s children from abuse and neglect, which has been falling
6 apart for years due to poor design and chronic under-funding, is in critical need of repair.”
7 Governor Napolitano convened an “Advisory Commission on CPS Reform” that issued an
8 *Action Plan for Reform of Arizona’s Child Protection System* in September 2003 (the
9 “*Action Plan*”). The *Action Plan* noted several systemic deficiencies in the state’s child
10 welfare system, including a shortage of foster homes and limited access to services for
11 foster children.

12 16. In the years since *In Harm’s Way* and the *Action Plan* were released, the child
13 welfare system has continued to suffer from a vast shortage of foster homes and inadequate
14 access to child services, despite the known harm that these structural impairments have
15 caused children in state foster care to suffer.

16 17. As a result of the state’s failure to remedy these problems, plaintiffs have been,
17 and continue to be, exposed to harm and an unreasonable risk of harm, in violation of their
18 federal constitutional and statutory rights.

19 **JURISDICTION AND VENUE**

20 18. This action is brought pursuant to 42 U.S.C. § 1983 to redress violations of the
21 United States Constitution and the provisions of the federal Medicaid Act, including
22 42 U.S.C. §§ 1396a(a)(10)(A)(i)(I), 1396a(a)(43)(C), 1396d(a)(4)(B) and 1396d(r), that
23 require states to provide early and periodic screening, diagnostic and treatment (“EPSDT”)
24 services. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3), and
25 authority to grant declaratory relief under 28 U.S.C. §§ 2201 and 2202.

26 19. Venue is proper here pursuant to 28 U.S.C. § 1391(b) because the claims arise
27 in this district.
28

PARTIES

A. The Named Plaintiffs

B.K.

20. As of February 3, 2015, B.K. is a ten-year-old girl in state foster care with a permanency goal of permanent foster care, meaning that DCS has concluded that she has little, if any, chance of leaving foster care over the next eight years. She has spent more than half of her life in state foster care. During her time in state foster care, B.K. has been deprived of needed physical and mental health care, separated from her siblings, deprived of contact with her mother and siblings, and placed in institutional settings on two different occasions. As a result of these experiences, B.K. has been subjected to emotional harm and/or an ongoing unreasonable risk of harm.

21. B.K. first entered voluntary state custody in 2005 when she was five months old. At that time, B.K.'s mother had a substance abuse problem and could not care for her. B.K. remained in the legal custody of the state child welfare agency until September 2006 when she was returned to her mother.

22. In 2008, then three-year-old B.K. and her three siblings were removed from their mother's home. Upon assuming their care, the state child welfare agency immediately separated the four siblings, placing B.K. and her brother in a licensed foster home, and their two sisters in a second foster home. In late 2009, the state child welfare agency returned B.K. and her siblings to their mother's care.

23. In 2012, B.K. and her three siblings were again removed from their mother's home and placed in state foster care custody. Upon coming into state care for the third time, B.K. was diagnosed with Posttraumatic Stress Disorder ("PTSD"), a mood disorder, psychosis and anxiety. An investigation showed that B.K. had been physically abused by her mother, and had bumps and bruises on her head and behind her ears.

24. Despite her fragile emotional state, the state child welfare agency separated B.K. from all of her siblings, placing her in a group home on "emergency shelter" status.

1 Though such placements are supposed to be short-term, B.K. remained at the group home
2 for more than two years.

3 25. While at the group home, the state child welfare agency failed to ensure that
4 B.K. obtained the glasses she needed to see properly. The state child welfare agency also
5 failed to discover that B.K. was walking with a limp, and failed to make sure that she
6 received the orthopedic shoes she needed. Despite months of complaints from B.K. about
7 a toothache, the state child welfare agency failed to make sure she saw a dentist while she
8 was living at the group home.

9 26. From the time B.K. was placed at the group home in 2012 until early 2014, the
10 state child welfare agency and DHS also failed to ensure that B.K. received consistent
11 counseling and needed mental health services. During this time, B.K. was saying that she
12 was hearing voices that were telling her to hurt other people or that someone would die.
13 One time she was so scared by the voices that she called the police. The state child
14 welfare agency knew that the group home was failing to arrange for B.K.'s transportation
15 to appointments with health care providers, but failed to see to it that B.K. received
16 uninterrupted services. The group home also enrolled B.K. in a specialized school where
17 she was the only girl.

18 27. In May 2014, the state child welfare agency finally placed B.K. in a foster home
19 after she had spent 25 months in the group home. The state child welfare agency placed
20 her with a man and his great-nephew who went to the same specialized school as B.K.
21 The man told the state child welfare agency that he was concerned about B.K.'s mental
22 health and asked the state to make sure she received an updated psychological evaluation.
23 The last complete evaluation had been conducted five years earlier when B.K. was four.
24 The updated assessment was never performed. After only eight weeks, B.K. was moved to
25 a second foster home with neighbors of the man and his great-nephew. After two weeks at
26 this second home, the foster parents packed up B.K.'s things and dropped her off at a DCS
27 office.

1 28. In August 2014, DCS moved B.K. to a shelter. The move to shelter care caused
2 B.K. to have to change schools, resulting in educational and social disruption. Moreover,
3 the counselor who had been treating B.K. at the group home refused to drive to see B.K. at
4 the shelter because of the distance involved, and DCS again failed to ensure that B.K.
5 received transportation to her counseling sessions.

6 29. During August 2014, B.K.'s behavioral health coordinator concluded that B.K.
7 should be placed in a "Home Care Training to Home Care Client Services" ("HCTC")
8 therapeutic foster home. No such placement was made and B.K. remained in a shelter
9 until September. While at the shelter, B.K. had no contact with her mother or three older
10 siblings, even though her siblings have been returned to their mother's care. B.K.'s mental
11 health deteriorated at the shelter and she threatened to hurt herself and others. She was
12 admitted to a psychiatric hospital for a week to be stabilized.

13 30. In late September 2014, DCS moved B.K. from the hospital to a non-therapeutic
14 foster home. This resulted in another change in schools. DCS did not ensure that she had
15 regular contact with her mother or siblings.

16 31. In December 2014, still waiting to be placed in an HCTC home, B.K. had
17 another psychiatric crisis and threatened suicide. The state child welfare agency moved
18 her out of the foster home and DHS admitted her to another psychiatric hospital. She
19 stayed in the hospital for a week and a half.

20 32. In late December, months after her providers agreed she needed a therapeutic
21 foster home, B.K. was finally discharged from the hospital to an HCTC placement. This
22 resulted in yet another change in schools.

23 **C.P.**

24 33. As of February 3, 2015, C.P. is a seven-year-old boy who has been in state
25 foster care custody since June 2013, with a permanency goal of adoption. During his time
26 in state foster care, he has attended at least eight different schools and has had to live in at
27 least 11 different placements, including two stays in shelters and a placement in a foster
28 home where he was physically abused. While in state foster care, he has been separated

1 from his siblings, deprived of visits with them, and has been deprived of access to both the
2 mental health services and placements he desperately needs. As a result of these
3 experiences, C.P. has been subjected to physical and emotional harm and/or an ongoing
4 unreasonable risk of harm.

5 34. C.P. and his two sisters were taken into state foster care custody after being
6 exposed to neglect and domestic violence. They were initially placed in an unlicensed
7 foster home for four days before being moved to their grandmother's home. During the
8 two-month period that C.P. was with his grandmother, she repeatedly asked the state child
9 welfare agency for help with C.P.'s mental health needs, but C.P. did not receive any
10 mental health care services. Ultimately, his grandmother asked the state child welfare
11 agency to remove C.P. and his siblings from her home.

12 35. The state child welfare agency then separated C.P. and his older sister from their
13 younger sister. C.P. and his older sister were placed in a Spanish-speaking foster home,
14 even though the children do not speak Spanish. The home was almost an hour away from
15 C.P.'s grandmother and the foster home where C.P.'s younger sister was placed. Within
16 ten days of arriving at the Spanish-speaking foster home, C.P. and his older sister were
17 separated and placed in two different foster homes.

18 36. In early September 2013, the state child welfare agency moved C.P. to yet
19 another foster home. After months in foster care, C.P. was belatedly assigned a therapist.
20 Even then, however, C.P.'s foster mother refused to take C.P. to his appointments and the
21 state child welfare agency and DHS failed to arrange for other transportation. As a result,
22 C.P. did not have a single therapy session during the four months he lived at the foster
23 home.

24 37. The foster mother was also reported to the state Child Abuse Hotline, to C.P.'s
25 DES case manager and to the state licensing office, after she placed C.P. in the front seat
26 of her car without a car seat or booster seat. DCS did not conduct an investigation of these
27 reports. Moreover, the case manager acknowledged that she had made an earlier report to
28

1 the Child Abuse Hotline herself when it was discovered that the foster mother had left C.P.
2 unsupervised with another foster child. DCS did not investigate that report either.

3 38. In January 2014, C.P. began visiting at another home where his older sister was
4 living. When his foster mother failed to pick him up from a visit, the state child welfare
5 agency simply told the family whom C.P. was visiting to keep him. C.P. subsequently
6 disclosed that his former foster mother had hit him with a spoon. Though the state child
7 welfare agency investigated the reported abuse, DCS never entered any investigation
8 findings into the agency's Children's Information Library and Data Source ("CHILDS")
9 system, nor did the state child welfare agency close the investigation.

10 39. C.P. started living at the new foster home with his older sister in January 2014.
11 Shortly thereafter, he became suicidal. Though he had a crisis stabilization team in place,
12 it failed to promptly respond to this crisis, and the foster mother called the police who took
13 C.P. to the hospital. C.P. did not see his older sister again for nearly a year.

14 40. C.P. was admitted to a psychiatric hospital for a week. He was diagnosed with
15 PTSD and his doctors indicated that he needed immediate intensive trauma therapy and
16 specialized therapy at a therapeutic HCTC home. C.P.'s stabilization team agreed that
17 C.P. needed to be placed in a foster home equipped to respond to his needs. Nevertheless,
18 when C.P. left the hospital, the state child welfare agency took him directly to a shelter.
19 He spent ten days in that shelter before being moved to a second shelter, a move that also
20 resulted in C.P. having to change schools.

21 41. In February 2014, three weeks after arriving at the second shelter, C.P. became
22 suicidal again, telling staff about his plan to get a knife and hurt himself. He was
23 hospitalized for a second time and prescribed psychotropic medication. He remained in
24 the hospital for two weeks before being discharged in March 2014. Again, the doctors at
25 the psychiatric hospital recommended that C.P. be released to a therapeutic HCTC home.

26 42. Instead, the state child welfare agency placed C.P. in a non-therapeutic foster
27 home. C.P. had to switch schools again and was inappropriately placed in first grade
28 instead of kindergarten, where he should have been enrolled based on his age and school

1 experience. He stayed in first grade for a month before anyone realized he was in the
2 wrong grade.

3 43. In April 2014, the state child welfare agency finally placed C.P. in an HCTC
4 home. Unfortunately, he was required to switch schools again as a result of this latest
5 placement.

6 44. In December 2014, both of C.P.'s two sisters were adopted. During the year
7 before they were adopted, C.P. had only one sibling visit with one of his sisters, even
8 though his mental health assessments indicate that his sisters are the only people with
9 whom he has meaningful attachments. Moreover, as of February 3, 2015, not only has he
10 had no contact with either of them since they were adopted, but he has not received the
11 intensive trauma therapy that was recommended for him in January 2014, and because his
12 HCTC placement is temporary, his providers have decided that he should not receive
13 intensive trauma therapy until he is in a more stable home.

14 **B.T.**

15 45. As of February 3, 2015, B.T. is a fourteen-year-old boy diagnosed with PTSD
16 who has a permanency goal of adoption. During his many years in state foster care
17 custody, he has been shuffled through numerous institutional settings despite his young
18 age, separated from his siblings, denied sibling visitation, deprived of much needed mental
19 health care, and has had to endure repeated educational disruptions. As a result of these
20 experiences, B.T. has been subjected to emotional harm and/or an ongoing unreasonable
21 risk of harm.

22 46. In January 2005, B.T. was taken into foster care for the first time, along with his
23 two older brothers. B.T. and one of his older brothers were placed together in a group
24 home, and the other brother was separated and placed in a different group home.

25 47. A month after being taken into state foster care, B.T. had a psychological
26 evaluation, which indicated that he needed therapeutic treatment. He had to wait six
27 months before his first therapy session.
28

1 48. In June 2005, B.T. was removed from the group home and separated from the
2 brother with whom he was placed there. He was moved to a kinship foster home with a
3 paternal aunt. By December 2005, B.T. had spent six months in his new home without any
4 visits with his older brothers. He did not see his brothers again until January 2006.

5 49. In August 2006, B.T.'s aunt told the state child welfare agency that B.T. was not
6 receiving the counseling that he needed. She requested that B.T. have an updated
7 psychological evaluation, but no such evaluation was conducted. During this same time
8 period, the state child welfare agency was again failing to provide B.T. with regular visits
9 with one of his brothers.

10 50. In September 2006, B.T.'s aunt told the state child welfare agency that she
11 could no longer care for B.T. since the state was not providing him with the mental health
12 services he needed. Rather than DHS providing those services, the state child welfare
13 agency moved B.T. to an emergency receiving foster home.

14 51. In October 2006, B.T. threatened to kill himself and the foster family with
15 whom he was temporarily placed. Despite his mounting mental health issues, B.T. still
16 was not receiving regular therapy. The state child welfare agency responded to this latest
17 crisis by removing B.T. from the home. B.T., then six years old, was again placed in a
18 group home.

19 52. Shortly thereafter, the state child welfare agency received reports that B.T. was
20 struggling emotionally in the group home. Again, an updated psychological evaluation for
21 B.T. was requested, but the evaluation was not scheduled until December 2006. The state
22 child welfare agency and DHS also failed during this time to ensure that B.T. received
23 needed counseling.

24 53. B.T.'s evaluation indicated that he needed individual therapy every other week.
25 He was also prescribed psychotropic medication. A psycho-educational evaluation was
26 recommended, but never conducted.

1 54. In January 2008, B.T. was placed in a pre-adoptive home with one of his
2 brothers. A month later, the family told the state child welfare agency that B.T. needed
3 more intensive counseling and a different counselor who could better meet B.T.'s needs.

4 55. In August 2008, both B.T. and his brother were adopted. In March 2011,
5 however, they were both taken back into state foster care. Shortly after this occurred, B.T.
6 reported that his adoptive father had been beating him with a belt.

7 56. The state child welfare agency immediately separated B.T. from his brother,
8 placing the two boys in different non-therapeutic group homes. The group home where
9 B.T. was placed told the state child welfare agency that B.T. desperately needed
10 counseling. Despite this, B.T. did not receive any counseling while at the group home.

11 57. A month after being brought back into state foster care, B.T. was hospitalized in
12 an acute care mental health facility for two weeks. After leaving the hospital, the state
13 child welfare agency returned B.T. to the group home.

14 58. Once back at the group home in May 2011, B.T.'s mental health worsened.
15 DHS approved B.T. for a therapeutic HCTC placement, but did not have one available for
16 him.

17 59. Stuck in the group home, B.T. responded by trying to run away. B.T. spent the
18 night at a juvenile detention center. In that one night, his group home filled his open bed
19 with another child. As a consequence, the state child welfare agency moved B.T. to a new
20 group home hours away from his prior placement.

21 60. In July 2011, B.T. was moved to an HCTC home, but he was still not receiving
22 trauma therapy and no psycho-sexual evaluation had been completed, despite one having
23 been recommended months earlier. It was not until October 2011 that a psycho-sexual
24 evaluation was conducted.

25 61. During April 2012, the state child welfare agency and DHS began looking for
26 another HCTC placement to better meet B.T.'s needs. Unable to find one, the state child
27 welfare agency instead moved him to a non-therapeutic group home/shelter in August
28 2012. By October 2012, B.T. reported "I feel like I get tossed around like a bag of chips."

1 He threatened to kill himself three times while in this non-therapeutic congregate care
2 placement.

3 62. In November 2012, the shelter told the state child welfare agency that B.T.
4 needed a higher level of care. The next month he was moved again, this time to a
5 therapeutic group home. While placed there, B.T. continued to express suicidal thoughts.

6 63. In January 2013, B.T. was returned to the same non-therapeutic group
7 home/shelter that had told the state just two months earlier that B.T. needed a higher level
8 of care. B.T. remained at that shelter for a few more weeks before the state child welfare
9 agency moved him again to a therapeutic group home two hours from his home
10 community. In May 2013, the brother with whom B.T. was adopted in 2008 was placed in
11 a pre-adoptive placement with a family that ultimately adopted him. B.T. felt defeated and
12 said he thought he would never get out of the group home. The following month, B.T.
13 grabbed the steering wheel of a van driven by group home staff, saying, "I want us all to
14 die." That same day, the state's therapeutic team coordinating B.T.'s behavioral health
15 services reported that "with a few exceptions, B.T. is doing well over the last 2 weeks."

16 64. Following the apparent suicide attempt, B.T.'s treating psychiatrist
17 recommended that B.T. be placed in a residential treatment facility. An application was
18 made the following month. While that request was pending, the state child welfare agency
19 moved B.T. to another therapeutic group home far from his home county. In September
20 2013, the state child welfare agency moved B.T. to yet another therapeutic group home.

21 65. In March 2014, the state child welfare agency moved B.T. to a non-therapeutic
22 family foster home, but this placement disrupted after DHS failed to provide B.T. with any
23 therapy to support his transition to a family home. In July 2014, B.T. was moved to
24 another non-therapeutic foster home. By September, B.T. had only had a single therapy
25 session.

26 66. In October, DCS moved B.T. to a shelter where he stayed for more than a
27 month. B.T. did not receive any therapy sessions in the placement. In early November,
28 his Child and Family Team ("CFT") recommended and the state child welfare agency and

1 DHS approved B.T. for a therapeutic HCTC placement. No such placement was made.
2 Instead, DCS placed B.T. in another therapeutic group home.

3 67. Almost every time the state child welfare agency has moved B.T. over the last
4 three and a half years, he had to go to a new school.

5 68. In December 2014, B.T. threatened to commit suicide while living in the
6 therapeutic group home. In January 2015, B.T. was placed in juvenile detention in
7 Maricopa County following an incident in a prior group home.

8 69. Now 14 years old, B.T. has spent half his life in Arizona foster care custody and
9 does not expect to find a permanent family.

10 **A.T.**

11 70. As of February 3, 2015, A.T. is a ten-year-old boy in state foster care living in a
12 non-therapeutic group home, with a permanency goal of adoption. He was taken into state
13 foster care custody most recently in September 2011 with his nine-year-old brother.
14 During his time in state foster care, A.T. has been placed in institutional care; deprived of
15 necessary physical, dental and mental health care services; separated from his brother and
16 deprived of sibling visitation; and, has been subject to missed visits by his state child
17 welfare caseworker. As a result of these experiences, A.T. has been subjected to emotional
18 harm and/or an ongoing unreasonable risk of harm.

19 71. A.T. and his younger brother were taken into state foster care custody after their
20 father committed suicide in mid-2011. This was their second time in state foster care.
21 They had also been in state foster care custody prior to 2007. Their mother's parental
22 rights were terminated in January 2007.

23 72. Following their father's suicide, the state child welfare agency placed A.T. and
24 his brother in an unlicensed kinship home with an uncle, his wife and their young son. In
25 November 2011, A.T.'s brother was removed from the home and placed in a therapeutic
26 group home. A.T. remained with his uncle's family.

27 73. During the period from November 2012 to March 2013, the state child welfare
28 agency failed to arrange for sibling visits between A.T. and his brother, and A.T.'s state

1 caseworker failed to make monthly visits, as required under state policy. In February
2 2013, the state child welfare agency was ordered to ensure that the boys had visitation with
3 each other twice weekly. The state child welfare agency was also ordered to transfer
4 A.T.'s case to the adoption unit to begin the process of finding a permanent family. As
5 alleged below, the state child welfare agency failed to comply with that order.

6 74. As of March 2013, A.T. had not had a routine physical or seen a dentist in a
7 year.

8 75. At a status hearing in April 2013, the juvenile court made a finding of "no
9 reasonable efforts" against the state child welfare agency for its failure to arrange for
10 sibling visitation, to help A.T. progress with his schooling, and to transfer A.T.'s case to
11 the adoption unit. Despite this ruling, and despite the fact that A.T. had been free for
12 adoption since he re-entered care in 2011, the state child welfare agency still failed to
13 transfer A.T.'s case to the adoption unit 13 months later, in May 2014.

14 76. In November 2013, a mental health evaluation was scheduled for A.T. and his
15 brother. The appointment could not proceed because the state child welfare agency and
16 DHS failed to arrange transportation for the boys. As a result, the evaluation had to be re-
17 scheduled for the following month.

18 77. The evaluation was not completed until February 2014. The evaluator
19 concluded that more information was needed with regard to A.T.'s response to his father's
20 suicide before any therapeutic services could be recommended. Nonetheless, the state
21 child welfare agency and DHS failed to request any further assessments.

22 78. In February 2014, A.T. also reported that his aunt and uncle left him for two to
23 three hours at a time to care for his five-year-old cousin while they delivered newspapers
24 in the early mornings. Around the same time, A.T.'s uncle posted a video on YouTube of
25 himself tasing a 15-year-old child living in the house while another child is heard crying
26 in the background. A.T.'s aunt and uncle were also using corporal punishment to
27 discipline A.T. While these facts were known to the state child welfare agency, it never
28 investigated them.

1 79. That same month, A.T.'s uncle and aunt announced that they were leaving the
2 state and would not be taking A.T. with them. A.T. was thereupon removed from the
3 uncle's home and placed in the same foster/adoptive home as his brother, but no services
4 were put in place for the first three weeks to help A.T. with the transition. Shortly after
5 being placed in the foster/adoptive home, A.T. started saying he wanted to die.

6 80. The state child welfare agency subsequently moved A.T. to an emergency
7 respite foster home. His brother's foster family told the state child welfare agency it was
8 willing to have A.T. return to live with them, but not until A.T. received the behavioral
9 health services he needed. Nevertheless, in April 2014, the state child welfare agency
10 moved A.T. to a non-therapeutic group home out of his home county and 1½ hours away
11 from his brother. The state child welfare agency did not arrange visits between the two
12 boys.

13 81. In May 2014, the juvenile court directed the state child welfare agency to
14 immediately place A.T. back in his home county. As A.T. was receiving no therapy or
15 counseling at the time, the court also ordered the state child welfare agency to obtain
16 therapy for A.T. immediately, beginning no later than the end of the month. However, in
17 July 2014, DCS and DHS again failed to coordinate A.T.'s transportation and A.T. was
18 unable to go to his scheduled psychological evaluation.

19 82. Despite the May 2014 court order, A.T. remained in a non-therapeutic group
20 home two hours away from his home community for five months. During that time he had
21 to travel nearly two hours each way to obtain needed mental health services. DCS moved
22 A.T. to a non-therapeutic group home in his home county in September 2014.

23 **The C-B Siblings**

24 83. The C-B siblings include two brothers, A.C-B and M.C-B, and two sisters, J.C-
25 B and D.C-B, all of whom were taken into state foster care custody in January 2014. As of
26 February 3, 2015, A.C-B is six years old, M.C-B is eight years old, J.C-B is three years old
27 and D.C-B is seven years old. Also as of that date, their permanency goal is reunification.
28 During their time in state foster care, they have been unnecessarily separated, deprived of

1 needed mental health care and parental visitation, and the sisters were placed in an
2 inappropriate institutional setting. As a result of these experiences, they have been
3 subjected to emotional harm and/or an ongoing unreasonable risk of harm.

4 84. Because of the traumatizing circumstances that led to their being taken into
5 foster care, the siblings' lawyer requested at the first juvenile court hearing of the case in
6 January 2014 that DHS immediately provide the children with trauma therapy. As alleged
7 further below, the state child welfare agency and DHS delayed those services for nine
8 months.

9 85. The state child welfare agency initially placed the four siblings with a relative
10 2½ hours away from the home from which they were removed. Because of this distant
11 placement, their urgent response assessments, required for every child taken into foster
12 care, were delayed, and the children never received any behavioral health services while in
13 this placement.

14 86. In March 2014, the state child welfare agency removed the children from the
15 relative and placed them in separate locations. The state child welfare agency placed
16 eight-year-old M.C-B and five-year-old A.C-B in a licensed family foster home. Six-year-
17 old D.C-B and two-year-old J.C-B were placed in a non-therapeutic group home. None of
18 the siblings received behavioral health services while in these placements.

19 87. That same month, M.C-B and A.C-B's foster parents requested that M.C-B
20 receive a psychological evaluation. The evaluation was not conducted for eight months.

21 88. In April 2014, the state child welfare agency moved all four of the C-B siblings
22 to their father's home. The children's state child welfare case manager never visited them
23 in the home. The state child welfare agency and DHS also failed to ensure that any of the
24 children received behavioral health services or counseling, even though D.C-B and A.C-B
25 were exhibiting sexualized behaviors indicative of possible sexual abuse. Only two weeks
26 after being placed there, the children's father requested that the state child welfare agency
27 remove them.

1 89. In May 2014, the state child welfare agency again split up the siblings, this time
2 into three different foster homes. M.C-B and A.C-B were placed in the same foster home
3 where they had previously been placed. The state child welfare agency placed each of the
4 girls, D.C-B and J.C-B, in separate foster homes.

5 90. From the time they were taken into custody to May 2014, none of the siblings
6 had any visits with their biological mother.

7 91. Following a juvenile court hearing in early June 2014, DCS agreed to ensure
8 that all four children receive therapy – not just an intake or enrollment – with a trauma
9 therapist by June 20. DCS also agreed to pay for the services if DHS would not pay. In
10 addition, the court directed DCS to provide the children with relational therapy with both
11 parents. DCS further agreed to work with the children’s father to help meet his
12 transportation needs in order to facilitate visitation with the children, including providing
13 him with a gas card. DCS failed to provide any of these services or supports.

14 92. Consequently, on July 2, 2014, the juvenile court made a “no reasonable
15 efforts” finding with regard to DCS’s failure to provide services for the siblings. The court
16 called the agency’s conduct “appalling.”

17 93. In late July 2014, D.C-B was placed in the same foster home as M.C-B and
18 A.C-B. As of February 3, 2015, J.C-B remains in a separate foster home.

19 94. In August 2014, eight months after being brought into foster care, the three
20 eldest siblings finally had their behavioral health evaluations completed.

21 95. In mid-September 2014, nine months after being taken into foster care, M.C-B
22 and A.C-B had received only one therapy session. Though their CFT recommended that
23 they receive weekly therapy sessions, the facility where the therapist is located can only
24 accommodate therapy sessions every other week.

25 96. By September 2014, D.C-B had received only two sessions with a therapist.
26 J.C-B had an intake meeting with her therapist, but her therapy sessions had not yet started.

1 97. In December 2014, DHS had only just begun the psychological evaluation that
2 M.C-B's foster parents first requested in March 2014. In addition, M.C-B and A.C-B are
3 both struggling in school with attention problems.

4 **J.M.**

5 98. As of February 3, 2015, J.M. is a nine-year-old boy with a permanency goal of
6 adoption. He was taken into state foster care when he was six years old. During his time
7 in state foster care custody, J.M. has been deprived of needed mental health care, placed in
8 institutions on numerous occasions, and has had his education repeatedly disrupted. As a
9 result of these experiences, J.M. has been subjected to emotional harm and/or an ongoing
10 unreasonable risk of harm.

11 99. J.M. was brought into state foster care in May 2012. The state child welfare
12 agency initially placed him in a shelter for five days, then moved him to live with his
13 grandmother. When she could not care for him, the state child welfare agency moved J.M.
14 to a group home in a different county. J.M. remained there for two months.

15 100. In July 2012, the state child welfare agency moved J.M. to an unlicensed
16 kinship home back in his home community. J.M. entered first grade that summer. The
17 state child welfare agency failed to ensure that J.M. had transportation to and from school.
18 As a consequence, J.M. missed sixty days of schooling.

19 101. In September 2013, J.M. was moved to another kinship placement two hours
20 from his home county. As a result of this placement change, J.M. had to start second grade
21 at a new school. The move also resulted in a change in J.M.'s mental health providers,
22 disrupting his mental health care.

23 102. In October 2013, the state child welfare agency moved J.M. to a licensed
24 family foster home back in his home county, resulting in yet another school change for
25 J.M.

26 103. In February 2014, the state child welfare agency moved J.M. to a non-
27 therapeutic group home in another county two hours away. As a result, he had to enroll at
28 his fourth school in less than two years since being brought into state foster care. His

1 teachers began developing an Individualized Education Program (“IEP”) for him, but it
2 was not finalized or implemented. He was also diagnosed with ADHD.

3 104. Between February and June 2014, J.M. had to move among four different
4 group homes, all two hours from his home community. During this period, DHS took the
5 position that J.M. could not be placed in an HCTC therapeutic foster home until he had
6 first received, and exhausted, out-patient counseling. But each time J.M. was forced to
7 move to a different group home, he had to start his therapy over again with a new therapist.

8 105. J.M.’s visitation with his mother was also disrupted when he was moved
9 among these various group homes. J.M. has no siblings and his mother is his only intimate
10 family relationship. She had trouble traveling the two hours by bus to see J.M. at his group
11 homes and the state child welfare agency refused to coordinate alternative transportation
12 for her. Instead, the state child welfare agency required eight-year-old J.M. to travel three
13 hours each way in a transport van for a two-hour visit with his mother.

14 106. In June 2014, DCS removed J.M. from his most recent group home and
15 returned him to a shelter. This placement resulted in another disruption in his education
16 and mental health treatment. With each educational disruption, J.M.’s new school has had
17 to re-start the IEP process of assessment and planning. DCS has failed to ensure that his
18 IEP was completed or provided to his new school, which had to be ordered by the juvenile
19 court.

20 107. Later in June 2014, the state child welfare agency and DHS finally approved
21 J.M. for an HCTC placement after counseling proved inadequate. However, at that time,
22 there were no HCTC placements available and J.M. continued to live at the shelter for four
23 months. In late October, DCS moved him to a licensed non-therapeutic foster home. It
24 was not until November 2014 that his current school concluded the necessary evaluations
25 and finalized his IEP.

26 **J.C.**

27 108. As of February 3, 2015, J.C. is a ten-year-old boy with a permanency goal of
28 adoption. He was taken into state foster care when he was eight. During the 2½ years he

1 has been in Arizona foster care, J.C. has suffered delays in needed health care treatment
2 after being diagnosed with PTSD; he has been placed in inappropriate institutional
3 settings; and he has been shuffled through numerous schools. He was also physically
4 abused while in state foster care custody. As a result of these experiences, J.C. has been
5 subjected to emotional and physical harm and/or an ongoing unreasonable risk of harm.

6 109. J.C. was brought into state foster care custody in March 2012. He displayed
7 behaviors that suggested he had been sexually abused, and was placed in an HCTC home.
8 However, in September 2012, he was moved from that home and placed in a non-
9 therapeutic group home. Not surprisingly, his mental health immediately deteriorated.
10 Among other things, he soiled his pants and banged his head against the wall. Despite this,
11 the state child welfare agency kept J.C. in the group home for seven months.

12 110. The state child welfare agency moved J.C. back with his father in March 2013,
13 while retaining legal custody over J.C. J.C.'s father did not take J.C. to his therapy
14 sessions. Nonetheless, the state child welfare agency left J.C. with his father and failed to
15 ensure that J.C. received the care he needed.

16 111. Two months later, nine-year-old J.C. attempted suicide by taking an overdose
17 of his psychotropic medication. He was transported to the emergency room and admitted
18 to a psychiatric hospital for ten days. The state child welfare agency then returned him to
19 his father's home, still retaining legal custody over J.C.

20 112. In March 2014, J.C. disclosed that his father had been physically abusing him
21 by hitting him with a belt. The state child welfare agency then removed J.C. from his
22 father's home. The abuse was so severe that the police criminally investigated J.C.'s
23 beating.

24 113. After removing him from his father, the state child welfare agency placed J.C.
25 in a non-therapeutic group home. As a result of this placement change, J.C. had to change
26 schools and has had significant problems adjusting. In July, DCS moved J.C. again, this
27 time to a therapeutic group home in another county, resulting in another school disruption.
28

1 In August 2014, DCS moved J.C. to an HCTC foster home. As of February 3, 2015, he is
2 still living there.

3 **B. The Next Friends**

4 114. Pursuant to Fed. R. Civ. P. 17(c)(2), Named Plaintiffs A.T., A.C-B, M.C-B,
5 J.C-B, D.C-B, J.M., and J.C. appear through their next friend Susan M. Brandt. Ms. Brandt
6 is Social Work Supervisor at the Office of Children's Counsel in Tucson, Arizona. She
7 resides in Tucson.

8 115. Pursuant to Fed. R. Civ. P. 17(c)(2), Named Plaintiffs B.T. and C.P. appear
9 through their next friend Jennifer L. Kupiszewski. Ms. Kupiszewski is an attorney in
10 private practice in Scottsdale who has previously represented children and parents in
11 dependency matters. She resides in Scottsdale, Arizona.

12 116. Pursuant to Fed. R. Civ. P. 17(c)(2), Named Plaintiff B.K. appears through her
13 next friend Margaret R. Tinsley, a retired attorney who has previously represented children
14 and parents in dependency matters. Ms. Tinsley resides in Tempe, AZ.

15 **C. The Defendants**

16 117. Defendant Gregory McKay is the Director of DCS and is being sued in his
17 official capacity. Director McKay maintains his principal office at the Department of
18 Child Safety, 1717 West Jefferson S/C005A, Phoenix, Arizona 85007. Director McKay is
19 mandated under state law to carry out the purposes of DCS, including the formulation of
20 policies, plans and programs to effectuate DCS's missions and purposes.

21 118. Defendant Cara M. Christ, M.D., is the Director of DHS and is being sued in
22 her official capacity. Director Christ maintains her principal office at the Department of
23 Health Services, 150 North 18th Avenue, Phoenix, Arizona 85007. Director Christ is
24 mandated under state law to administer DHS, including the formulation of policies, plans
25 and programs to provide mental and behavioral health services to children in DCS foster
26 care custody.

27 119. Defendant Thomas J. Betlach is the Director of AHCCCS and is being sued in
28 his official capacity. Director Betlach maintains his principal office at the Arizona Health

Care Cost Containment System, 801 E. Jefferson Street, MD 4100, Phoenix, Arizona 85034. AHCCCS is charged with administering and supervising Arizona's Medicaid program.

**FIRST CAUSE OF ACTION – VIOLATION OF PLAINTIFFS' SUBSTANTIVE
DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION**

120. Paragraphs 1-119 above are repeated and re-alleged as if fully set forth herein.

121. This claim is asserted against defendants McKay and Christ in their official capacities on behalf of a class of children who are or will be in the legal custody of the Arizona Department of Child Safety due to a report or suspicion of abuse or neglect (the "General Class").

122. DCS provides and is legally obligated to provide members of the General Class with physical and dental health care services through the state Comprehensive Medical and Dental Program ("CMDP"). DCS administers the CMDP.

123. DHS provides and is legally obligated to provide members of the General Class with mental and behavioral health services through ADHS Behavioral Health Services ("BHS"). BHS delivers these services through contracts with Regional Behavioral Health Authorities ("RBHAs") across the state.

124. DCS is also responsible for monitoring the physical, behavioral and emotional health status and needs of all members of the General Class and coordinating the physical, behavioral and mental health services provided to those children to ensure that they receive the health care services they need while in state foster care.

125. Many children in state foster care need such services to help them cope with the significant trauma to which they were exposed before being removed from their homes. For example, according to the Arizona Office of the Auditor General, "as of September 2013, approximately 31 percent of the children in out-of-home care aged 13 or older were clinically diagnosed as emotionally disturbed."

126. DCS and DHS are failing to fulfill their obligations to provide, coordinate and monitor medical, dental, mental and behavioral health services to members of the General

1 Class. As a result, members of the General Class are being harmed and subjected to an
2 unreasonable risk of harm and deterioration while in DCS state foster care custody.

3 127. In both its 2011 and 2012 annual reports, Arizona's state-wide Citizen Review
4 Panel ("CRP") found that many children in state foster care were not receiving adequate
5 mental and behavioral health assessments and services. The CRP "repeatedly observed
6 untreated mental health problems" among children in state foster care. It also found that a
7 "lack of access to comprehensive and timely mental health assessments and services
8 exacerbated the problems of the children" and resulted in, among other things, "multiple
9 disrupted foster and adoptive placements, delays in children obtaining permanency, and
10 CPS involvement in the next generation of children."

11 128. Moreover, according to the CRP's 2012 report, "[w]hen services were
12 provided, they were observed to be brief and limited with cases being closed without
13 observation of sustained behavior changes and few aftercare services in place. When
14 children were removed, delays between the time of referral and assessment were observed
15 to cause even longer delays before intervention was provided."

16 129. Similarly, in its 2013 Report, the CRP found that "the continuum of services . .
17 . for families is limited." According to the report, "comprehensive services were lacking
18 and existing services are unable to maintain long term change in these families."

19 130. The CRP is not alone in noting unacceptable shortages and delays in the
20 provision of needed services. According to a 2012 report issued by DES's own consultant,
21 "[a]s much as half of the time a child spends in [foster care] is spent waiting on services."
22 More recently, the Office of the Auditor General's report on DCS policy and practice
23 recognized the "[i]nadequate access to behavioral health services" for youth in foster care.

24 131. The Arizona Chapter of the Foster Family-Based Treatment Association
25 ("FFTA") has also noted the severe shortage of mental health services delivered by
26 professional foster homes (also known as "therapeutic foster homes") to children in state
27 foster care. These services, referred to in Arizona as "Home Care Training to Home Care
28 Client Services" ("HCTC"), are supposed to be available to children in state foster care

1 who need therapeutic family-based intervention. These therapeutic foster homes are
2 administered by DHS through RBHAs. DCS pays room and board for children in state
3 foster care placed in HCTC homes.

4 132. There are currently only about 400 HCTC homes for more than 16,500
5 children in state foster care. Moreover, most of these homes are only licensed for 1 or 2
6 placements, severely limiting the number of children for whom these homes are available.
7 The severe shortage of HCTC homes places members of the General Class at an
8 unreasonable risk of deteriorating while in state foster care.

9 133. The shortage of HCTC providers, coupled with the short-term nature of HCTC
10 services (DHS has a practice of requiring such services to be re-authorized every 90 days),
11 also subjects children in state foster care to emotionally harmful placement instability, as
12 children are moved out of HCTC homes far too soon after being placed there. The CRP's
13 2013 Report specifically found that the HCTC placement structure "causes disruption
14 when a specialized placement is required to meet a child's needs." This placement
15 disruption causes children with higher needs to "yo-yo" up and down in terms of their
16 behaviors, thereby driving additional placement moves, which results in even further
17 unnecessary re-traumatization.

18 134. The Arizona Auditor General has also recognized the state child welfare
19 agency's and DHS's practice of failing to provide "long-term solutions for children in need
20 of continued support" for their mental health needs. According to the Auditor General's
21 Report, "[c]hildren whose behavioral health improves in therapeutic foster homes may be
22 moved to less restrictive family settings, but without the same continued support, their
23 behaviors may worsen, resulting in placement disruptions and subsequent placement in
24 congregate care."

25 135. DCS and DHS further abdicate their legal duty to provide care for members of
26 the General Class by leaving the decision whether children should be placed in HCTC
27 homes to the six RBHAs that operate throughout the state, rather than allowing that
28 decision to be made by the children's Child and Family Teams ("CFTs"). Making matters

1 worse, the RBHAs have different processes for determining whether HCTC should be
2 provided to the children in their geographic regions. As a result, the availability of HCTC
3 turns in part on the fortuitous circumstance of where the member of the General Class
4 happens to live at the time HCTC is requested.

5 136. DCS caseworkers also fail to meet their obligation under agency policy to
6 participate in CFT meetings, including inter-agency meetings with DHS, that are a
7 prerequisite to members of the General Class receiving behavioral health services. When
8 DCS caseworkers do not join CFT meetings, essential information about a child's needs is
9 not shared, treatment planning and referrals are held up, and services are delayed. These
10 deficiencies expose members of the General Class to an undue risk that they will not
11 receive the behavioral services they require, leading to a deterioration of the child's
12 condition while in state foster care custody.

13 137. Remarkably, even former DES Director Carter acknowledged at an
14 October 17, 2013 meeting of the CPS Oversight Committee that DES does not collect data
15 in a way that enables the child welfare agency to show that a particular set of family
16 interventions is effective. At the same meeting, Ms. Sotomayor, then Assistant Director
17 for the former DES Division of Children, Youth and Families, agreed that it is unclear
18 whether a number of services provided by DES "are appropriate or adequate" for families.

19 138. In addition to the lack of adequate mental health services, far too many
20 children in state foster care fail to receive needed physical health care services. According
21 to the state's Practice Improvement Case Review ("PICR") for 2013, DCS failed to
22 properly assess and address the children's physical health needs in a third (34%) of the
23 cases reviewed. The same review found that 22% of children who had been in foster care
24 for more than 12 months had not received a comprehensive physical health examination.
25 In addition, more than 40% of children who had been in care for less than a year did not
26 receive an examination within 30 days as required by agency policy. Based on the same
27 2013 PICR, DCS had failed to assess and provide necessary services to address the
28 children's mental health needs in nearly one in five cases reviewed.

1 139. Based on the 2012 PICR, the state child welfare agency failed to meet the
2 physical health care needs of children in state foster care in 49% of the cases reviewed.

3 140. Moreover, according to the state child welfare agency's own data, during
4 federal fiscal year 2012, 36% of children in state foster care ages three to six did not
5 receive well-care visits required under the periodicity schedule that the state is required to
6 establish under the EPSDT provisions of the federal Medicaid Act. A nearly identical
7 percentage of adolescents in foster care likewise failed to receive such required health care
8 visits. Similar failures in providing such services to these age groups were reported for
9 federal fiscal years 2009, 2010 and 2011.

10 141. In addition, according to the state's PICR for 2013, 34% of children who had
11 been in state foster care for more than six months were found not to have had a dental
12 examination within the most recent six months. During 2012, the number of children who
13 had missed required dentist visits was nearly four in ten.

14 142. The inadequacy of the health care services provided to the General Class
15 subjects these children to harm and/or an unreasonable risk of suffering ongoing physical
16 and emotional harm and deterioration while in state foster care.

17 143. A state assumes an affirmative duty under the Fourteenth Amendment to the
18 United States Constitution to protect a child from an unreasonable risk of harm once it
19 takes that child into its legal foster care custody.

20 144. Defendant McKay directly and indirectly controls and is responsible for the
21 child welfare policies and practices of DCS. The foregoing DCS policies and practices fail
22 to satisfy its affirmative duty to protect the General Class, including the Named Plaintiffs,
23 from an unreasonable risk of physical and emotional harm. These failures are a substantial
24 factor leading to, and proximate cause of, the ongoing violation of the General Class's
25 constitutionally protected liberty and privacy rights.

26 145. Defendant Christ directly and indirectly controls and is responsible for the
27 policies and practices regarding the provision of mental and behavioral health services by
28 DHS. The foregoing DHS policies and practices fail to satisfy its affirmative duty to

1 protect the General Class, including the Named Plaintiffs, from an unreasonable risk of
2 emotional harm. These failures are a substantial factor leading to, and proximate cause of,
3 the ongoing violation of the General Class's constitutionally protected liberty and privacy
4 rights.

5 146. The foregoing policies and practices of DCS and DHS described herein
6 constitute a policy, pattern, custom and/or practice that shocks the conscience, is outside
7 the exercise of any professional judgment, and amounts to deliberate indifference to the
8 constitutionally protected rights and liberty and privacy interests of the Named Plaintiffs
9 and other members of the General Class. As a result, all members of the General Class
10 have been harmed or are being subjected to an ongoing unreasonable risk of harm, in
11 deprivation of their substantive due process rights guaranteed by the Fourteenth
12 Amendment to the United States Constitution.

13 147. These substantive due process rights include, but are not limited to: the right
14 of members of the General Class to protection from harm and unreasonable risk of harm
15 while in state foster care custody; the right to a living environment that protects the
16 physical, mental and emotional safety and well-being of the General Class; the right to
17 necessary treatment, care and services to prevent members of the General Class from
18 deteriorating or being harmed physically, psychologically or otherwise while in state foster
19 care; and the right to adequate caseworker supervision and monitoring of the General
20 Class's safety and well-being.

21 148. As of September 30, 2014, there were 16,990 members of the General Class.
22 The General Class is sufficiently numerous to make individual joinder impracticable.

23 149. Named Plaintiffs' First Cause of Action raises questions of fact and law that
24 are common to, and typical of, all members of the General Class. Such common questions
25 of fact include:

- 26 a. Whether DCS has a practice of failing to provide members of the
27 General Class with legally required medical and dental services necessary to keep
28

1 the General Class safe and properly cared for, and to prevent them from
2 deteriorating physically while in state foster care custody;

3 b. Whether DHS has a practice of failing to provide members of the
4 General Class with legally required mental and behavioral health services necessary
5 to keep the General Class safe and properly cared for, and to prevent them from
6 deteriorating emotionally and psychologically while in state foster care custody; and

7 c. Whether DCS has a practice of failing to coordinate and ensure that
8 the General Class are provided with the legally required mental and behavioral
9 health services to keep the General Class safe and properly cared for, and to prevent
10 them from deteriorating emotionally and psychologically while in state foster care
11 custody.

12 150. Such common questions of law include whether DCS's and DHS's actions and
13 inactions violate the General Class's substantive due process rights to be free from harm
14 and an unreasonable risk of harm while in state foster care custody.

15 151. Named Plaintiffs will fairly and adequately protect the interests of the General
16 Class they seek to represent.

17 152. Named Plaintiffs and the putative General Class are represented by:

18 a. Attorneys employed by Perkins Coie LLP, an international law firm
19 with an office in Phoenix, Arizona, whose attorneys have extensive experience in
20 complex civil and public interest litigation, including class action litigation;

21 b. Attorneys employed by the Arizona Center for Law in the Public
22 Interest, a nonprofit legal organization based in Phoenix whose attorneys also have
23 extensive experience in complex civil and public interest litigation, including class
24 action litigation; and

25 c. Attorneys employed by Children's Rights, Inc., a nonprofit legal
26 organization whose attorneys have substantial experience and expertise in child
27 welfare class actions nationally.
28

1 153. The attorneys and organizations listed above have investigated all claims in
2 this action and have committed sufficient resources to represent the General Class.

3 154. Each Named Plaintiff appears by a next friend, and each next friend is
4 sufficiently familiar with the facts of the child's situation to fairly and adequately represent
5 the child's interests in this litigation.

6 155. Defendants McKay and Christ have acted or failed to act on grounds generally
7 applicable to the General Class, necessitating declaratory and injunctive relief. Plaintiffs'
8 counsel know of no conflicts between or among members of the General Class.

9 **SECOND CAUSE OF ACTION – VIOLATION OF PLAINTIFFS' RIGHTS**
10 **UNDER THE EPSDT PROVISIONS OF THE MEDICAID ACT**

11 156. Paragraphs 1-155 above are repeated and re-alleged as if fully set forth herein.

12 157. This claim is asserted against defendants McKay, Christ and Betlach in their
13 official capacities on behalf of all members of the General Class who are eligible for
14 Medicaid (the "Medicaid Subclass").

15 158. Medicaid is a joint federal-state program under Title XIX of the Social
16 Security Act, 42 U.S.C. § 1396, *et seq.*, designed to provide medically necessary physical
17 and mental health care to, among others, eligible children.

18 159. States that choose to participate in the Medicaid program are reimbursed by
19 the federal government for a portion of the cost of providing Medicaid benefits. To
20 receive federal funds, states must comply with the requirements set forth in Title XIX of
21 the Social Security Act and its implementing regulations. Among those requirements,
22 states are required to develop state plans that identify the medical services available to
23 eligible beneficiaries.

24 160. Children in state foster care are eligible beneficiaries of Medicaid services
25 under 42 U.S.C. § 1396a(a)(10)(A)(i)(I).

26 161. Under 42 U.S.C. § 1396a(a)(10)(A) and 42 U.S.C. § 1396d(a)(4)(B), states are
27 required to provide EPSDT services to eligible children in state foster care. The required
28 screening services are set forth in 42 U.S.C. § 1396d(r)(1), while §§ 1396a(a)(43)(C) and

1 1396d(r)(5) require states to provide necessary health care, diagnostic services and treatment
2 to correct or ameliorate defects or physical and mental illnesses and conditions discovered
3 by those screening services.

4 162. Under 42 U.S.C. § 1396d(r)(1)(A)(i) and 42 C.F.R. § 441.58, states are
5 required to establish periodicity schedules setting forth when the screening services
6 required under the Medicaid Act must be provided.

7 163. Moreover, under 42 U.S.C. § 1396a(a)(8) and 42 C.F.R. § 435.930(a), states
8 must provide EPSDT services with reasonable promptness.

9 164. The policy underlying the EPSDT mandate is to prevent illness, as well as to
10 ensure that health problems are comprehensively diagnosed and then treated as soon as
11 they are detected, before they become more complex and their treatment more costly.

12 165. Pursuant to a contract with AHCCCS, DCS serves as the statewide
13 administrator responsible for the provision of physical, dental, vision and hearing health
14 care services, including screening, diagnostic and treatment services, to members of the
15 Medicaid Subclass. DCS and AHCCCS are legally obligated to ensure that members of
16 the Medicaid Subclass receive such medical services. DCS provides such medical services
17 through CMDP.

18 166. DCS also determines the Medicaid eligibility of every child in state foster care
19 custody.

20 167. Pursuant to a contract with AHCCCS, DHS serves as the statewide
21 administrator responsible for the provision of mental and behavioral health care services,
22 including screening, diagnostic and treatment services, to members of the Medicaid
23 Subclass. DHS and AHCCCS are legally obligated to ensure that members of the
24 Medicaid Subclass receive such medical services. DHS provides such services through
25 BHS, which, in turn, delivers these services through contracts with RBHAs across the
26 state.

27 168. Under Arizona's EPSDT Periodicity Schedule, DCS is required to provide
28 annual physical examinations to members of the Medicaid Subclass who are age three and

1 older, and more frequent physical examinations to members of the Medicaid Subclass
2 under age three. The state's Periodicity Schedule further requires DCS to provide annual
3 vision screenings to members of the Medicaid Subclass ages 4-6, 8, 10 and 12 years old,
4 and semi-annual dental examinations to members of the Medicaid Subclass who are six
5 months of age or older.

6 169. DCS's Policy and Procedure Manual further provides that it is the
7 responsibility of the DCS foster care caseworker to ensure that a child entering foster care
8 be given a complete medical examination that meets EPSDT requirements within 30 days
9 after initial placement in out-of-home care.

10 170. As for mental and behavioral health services, DHS is required under Arizona's
11 EPSDT Periodicity Schedule to provide members of the Medicaid Subclass age three and
12 older with annual psychosocial/behavioral assessments. For members of the Medicaid
13 Subclass under the age of three, the Periodicity Schedule requires DHS to provide more
14 frequent psychosocial/behavioral assessments.

15 171. Under DHS Policy, DHS is also responsible for conducting an Urgent
16 Response assessment of every child within 24 hours of removal from his or her home to
17 detect both initial and delayed effects of trauma.

18 172. AHCCCS is charged under state statutes and the federal Medicaid Act with
19 the responsibility to administer and supervise Arizona's Medicaid program.
20 Notwithstanding its contracts with DCS and DHS, AHCCCS has the authority and
21 responsibility to determine the state's Medicaid eligibility policies and criteria, its service
22 coverage and its payment policies. AHCCCS is also responsible for ensuring the state's
23 compliance with federal Medicaid requirements, including the provision of EPSDT
24 services, and for supervising the compliance of DCS and DHS under their contacts with
25 AHCCCS.

26 173. Defendants McKay, Christ and Betlach have a practice of failing to provide
27 members of the Medicaid Subclass with the screening, diagnostic and treatment services
28

1 required under the EPSDT provisions of the Medicaid Act, in violation of 42 U.S.C. §§
2 1396a(a)(10)(A)(i)(I), 1396a(a)(43)(C), 1396d(a)(4)(B) and 1396d(r).

3 174. Defendants McKay, Christ and Betlach also have a practice of failing to provide
4 such services with reasonable promptness, in violation of 42 U.S.C. § 1396a(a)(8) and 42
5 C.F.R. § 435.930(a).

6 175. The foregoing policies and practices of defendant McKay, who directly and
7 indirectly controls and is responsible for the policies and practices of DCS, defendant
8 Christ, who directly and indirectly controls and is responsible for the policies and practices
9 of DHS, and defendant Betlach, who is responsible for supervising the compliance of DCS
10 and DHS under their contracts with AHCCCS and ensuring their compliance with federal
11 law, violate the rights of Named Plaintiffs and the Medicaid Subclass under the Medicaid
12 Act.

13 176. As of September 30, 2014, there were over 10,000 members of the Medicaid
14 Subclass. The Medicaid Subclass is sufficiently numerous to make individual joinder
15 impracticable.

16 177. Named Plaintiffs' Second Cause of Action raises questions of fact and law that
17 are common to, and typical of, all members of the Medicaid Subclass. Such common
18 questions of fact include:

19 a. Whether DCS has a practice of failing to provide members of the
20 Medicaid Subclass with screening services that comply with the state's Periodicity
21 Schedule;

22 b. Whether DCS has a practice of failing to provide members of the
23 Medicaid Subclass with medically necessary diagnostic and treatment services;

24 c. Whether DHS has a practice of failing to provide members of the
25 Medicaid Class with screening services that comply with the state's Periodicity
26 Schedule; and

27 d. Whether DHS has a practice of failing to provide members of the
28 Medicaid Subclass with medically necessary diagnostic and treatment services.

1 178. Such common questions of law include whether DCS's, DHS's and
2 AHCCCS's actions and inactions violate the Medicaid Subclass's rights under the EPSDT
3 provisions of the federal Medicaid Act.

4 179. Named Plaintiffs will fairly and adequately protect the interests of the
5 Medicaid Subclass they seek to represent.

6 180. Named Plaintiffs and the putative Medicaid Subclass are represented by:

7 a. Attorneys employed by Perkins Coie LLP, an international law firm
8 with an office in Phoenix, Arizona, whose attorneys have extensive experience in
9 complex civil and public interest litigation, including class action litigation;

10 b. Attorneys employed by the Arizona Center for Law in the Public
11 Interest, a nonprofit legal organization based in Phoenix whose attorneys also have
12 extensive experience in complex civil and public interest litigation, including class
13 action litigation; and

14 c. Attorneys employed by Children's Rights, Inc., a nonprofit legal
15 organization whose attorneys have substantial experience and expertise in child
16 welfare class actions nationally.

17 181. The attorneys and organizations listed above have investigated all claims in
18 this action and have committed sufficient resources to represent the Medicaid Subclass.

19 182. Each Named Plaintiff appears by a next friend, and each next friend is
20 sufficiently familiar with the facts of the child's situation to fairly and adequately represent
21 the child's interests in this litigation.

22 183. Defendants McKay, Christ and Betlach have acted or failed to act on grounds
23 generally applicable to the Medicaid Subclass, necessitating declaratory and injunctive
24 relief. According to Director Betlach's May 17, 2015 motion to intervene in this action, it
25 is not possible to enter the relief sought in this Cause of Action without AHCCCS as a
26 defendant. Plaintiffs' counsel know of no conflicts between or among members of the
27 Medicaid Subclass.
28

**THIRD CAUSE OF ACTION – VIOLATION OF PLAINTIFFS’ SUBSTANTIVE
DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION**

184. Paragraphs 1-183 above are repeated and re-alleged as if fully set forth herein.

185. This claim is asserted on behalf of the General Class against defendant McKay in his official capacity.

Members of the General Class Are Not Receiving Timely Investigations of Reports That They Have Been Maltreated in State Foster Care Custody.

186. In late 2013, it was publicly disclosed for the first time that the state child welfare agency had failed to investigate 6,600 reports of alleged child abuse and neglect between 2009 and 2013, choosing instead to simply set those reports aside. In July 2014, it was disclosed that in another 14,000 cases, no documentation had been entered in the child’s or family’s case file for 60 days or more through April 2014.

187. While the legislation passed on May 29, 2014 attempts to address those enormous backlogs, DCS’s failure to complete child maltreatment investigations in a timely manner is not limited to those 20,600 reports and cases. In fact, DCS is also failing to initiate and complete investigations in a timely manner of reports that children have been abused or neglected *while in state foster care*. DES’s own consultants acknowledged in 2012 that foster care workers “often have a backlog” of new maltreatment reports involving children in state foster custody.

188. According to the state child welfare agency’s own data, during federal fiscal year 2012, the state child welfare agency failed to initiate investigations into 36% of all reports that children in state foster care custody had been abused or neglected, within the time frames required under state policy. During the six-month period from October 1, 2012 through March 31, 2013, 54% of all investigations involving children in state foster care were initiated late.

189. State law and agency policy further requires that the outcomes of child maltreatment investigations be entered into the State’s child welfare information database within 45 days and that investigations be closed within 60 days. However, according to

1 state data, during the six-month period from October 1, 2012 to March 31, 2013, the state
2 child welfare agency failed to meet this 60-day deadline in the large majority of
3 investigations involving children already in state foster care, regardless of the level of risk
4 to which members of the General Class were exposed. In fact, 72% of investigations into
5 high risk reports involving a present danger to children in state foster care were still not
6 closed after 60 days; 73% of investigations into reports involving an impending danger to
7 children in care were not closed in a timely manner; 72% of investigations into reports that
8 children in care had been abused or neglected within the past 30 days were not closed
9 within the required period; and 78% of investigations were not closed within the required
10 timeframe where the reports involved children in state foster care who had been abused or
11 neglected more than 30 days prior, the date of the last occurrence of abuse or neglect was
12 unknown, or the child was exposed to an unreasonable risk of harm.

13 190. These widespread delays in initiating and completing investigations into
14 reported child abuse and neglect subject members of the General Class to an unreasonable
15 risk of physical and emotional harm while in state foster care.

16 191. A state assumes an affirmative duty under the Fourteenth Amendment to the
17 United States Constitution to protect a child from an unreasonable risk of harm once it
18 takes that child into its legal foster care custody.

19 192. Defendant McKay directly and indirectly controls and is responsible for the
20 child welfare policies and practices of DCS. The foregoing DCS policies and practices fail
21 to satisfy its affirmative duty to protect the General Class, including the Named Plaintiffs,
22 from an unreasonable risk of physical and emotional harm. These failures are a substantial
23 factor leading to, and proximate cause of, the ongoing violation of the General Class's
24 constitutionally protected liberty and privacy rights.

25 193. The foregoing policies and practices of DCS described herein constitute a
26 policy, pattern, custom and/or practice that shocks the conscience, is outside the exercise
27 of any professional judgment, and amounts to deliberate indifference to the constitutionally
28 protected rights and liberty and privacy interests of the Named Plaintiffs and other

1 members of the General Class. As a result, all members of the General Class have been
2 harmed or are being subjected to an ongoing unreasonable risk of harm, in deprivation of
3 their substantive due process rights guaranteed by the Fourteenth Amendment to the
4 United States Constitution.

5 194. These substantive due process rights include, but are not limited to: the right of
6 members of the General Class to protection from harm and unreasonable risk of harm
7 while in state foster care custody; the right to a living environment that protects the
8 physical, mental and emotional safety and well-being of the General Class; the right to
9 necessary treatment, care and services to prevent members of the General Class from
10 deteriorating or being harmed physically, psychologically or otherwise while in state foster
11 care; and the right to adequate caseworker supervision and monitoring of the General
12 Class's safety and well-being.

13 195. As of September 30, 2014, there were 16,990 members of the General Class.
14 The General Class is sufficiently numerous to make individual joinder impracticable.

15 196. Named Plaintiffs' Third Cause of Action raises questions of fact and law that
16 are common to, and typical of, all members of the General Class. Such common questions
17 of fact include whether DCS has a practice of failing to conduct timely investigations into
18 reports that members of the General Class have been abused or neglected while in state
19 foster care custody.

20 197. Such common questions of law include whether DCS's actions and inactions
21 violate the General Class's substantive due process rights to be free from harm and an
22 unreasonable risk of harm while in state foster care custody.

23 198. Named Plaintiffs will fairly and adequately protect the interests of the General
24 Class they seek to represent.

25 199. Named Plaintiffs and the putative General Class are represented by:

26 a. Attorneys employed by Perkins Coie LLP, an international law firm
27 with an office in Phoenix, Arizona, whose attorneys have extensive experience in
28 complex civil and public interest litigation, including class action litigation;

b. Attorneys employed by the Arizona Center for Law in the Public Interest, a nonprofit legal organization based in Phoenix whose attorneys also have extensive experience in complex civil and public interest litigation, including class action litigation; and

c. Attorneys employed by Children's Rights, Inc., a nonprofit legal organization whose attorneys have substantial experience and expertise in child welfare class actions nationally.

200. The attorneys and organizations listed above have investigated all claims in this action and have committed sufficient resources to represent the General Class.

201. Each Named Plaintiff appears by a next friend, and each next friend is sufficiently familiar with the facts of the child's situation to fairly and adequately represent the child's interests in this litigation.

202. Defendant McKay has acted or failed to act on grounds generally applicable to the General Class, necessitating declaratory and injunctive relief. Plaintiffs' counsel know of no conflicts between or among members of the General Class.

FOURTH CAUSE OF ACTION – VIOLATION OF PLAINTIFFS' SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION

203. Paragraphs 1-202 above are repeated and re-alleged as if fully set forth herein.

204. This claim is asserted against Defendant McKay in his official capacity on behalf of all members of the General Class, except those children who are or will be in a kinship placement (the "Non-Kinship Subclass").

A. The Non-Kinship Subclass Suffers from a Severe Shortage of Foster Homes.

205. The state child welfare agency has failed to provide members of the Non-Kinship Subclass with an adequate number and array of foster care placements. The severe shortage of foster care placements frequently results in the state child welfare agency placing members of the Non-Kinship Subclass in the first available bed, rather than selecting placements based on the children's needs.

1 206. While Arizona's population of children in out-of-home care has grown by 56%
2 from September 2009 to March 2014, the number of Arizona foster families has only
3 increased by 9%, and the percentage of children placed in licensed foster homes has
4 decreased by 9%, during the same time period.

5 207. As of September 30, 2014, there were 9,418 children in state foster care who
6 were not placed with relatives or in trial home reunification settings. Nevertheless, the
7 state child welfare agency reported that it had licensed only 4,397 foster homes to accept
8 children in state foster care. Moreover, these foster homes provided only 5,669 available
9 spaces that could potentially match the needs of the children in DCS's custody. Even
10 assuming that each of these spaces matched the needs of the Non-Kinship Class, 3,749
11 class members would still be without a foster home.

12 208. A spokeswoman for DCS acknowledged in July 2014 that the department
13 "desperately needs more foster families to care for the increased number of children in out-
14 of-home care."

15 209. A recent DCS report stated that "[h]omes are needed for children of all ages,
16 however the most significant shortages of homes are for teens, sibling groups, and children
17 who have complex medical needs." The agency admits that "[t]here is a significant need
18 for additional foster and adoptive homes in all areas of Arizona."

19 210. According to a recent audit by the Arizona Auditor General, the state child
20 welfare agency "has not adequately implemented" performance-based contracting in the
21 contracts it has entered into with private child placing agencies to recruit foster parents,
22 identify and arrange child placement options, and supervise and monitor licensed foster
23 parents. The audit also found that the state child welfare agency has not developed
24 policies and procedures for monitoring the performance measures in its contracts, has not
25 used performance measure data to assess contractor performance, and has not adequately
26 designed the contracts to incentivize performance.

27 211. In addition to the inadequate recruiting of new foster homes, a 2012 survey
28 conducted by Arizona State University noted that programs and financial benefits available

1 to foster families have been drastically cut in recent years due to severe budget constraints.
2 For example, in 2009, the state cut foster family reimbursement rates and allowances for
3 clothing.

4 212. The scarcity of foster homes in Arizona is a well-known problem. In 2012,
5 *The Arizona Republic* reported that “[t]he state is in dire need of families to care for
6 children removed from their homes because of suspected abuse or neglect. But families
7 leave the foster care system faster than new ones come in. Many who leave say it’s not
8 necessarily the children who have caused them to turn in their license but their frustration
9 with the system’s inability to help them.”

10 213. Former DCS director Charles Flanagan has also acknowledged to members of
11 the state legislature that there are many instances when children have slept in agency
12 offices because the agency did not have a placement for them.

13 214. In fact, according to a recent press account, over just a six-day span from
14 September 28 to October 4, 2014, 36 members of the Non-Kinship Subclass spent at least
15 one night in DCS office buildings in Maricopa and Pima counties. Of those 36 children,
16 10 were between 2 and 5 years old, 11 were between 6 and 12 years old, and 15 were
17 between 13 and 18 years old. According to Gene Burns, who supervises DCS after-hours
18 units, “[i]n the 17 years [he has] been here, the biggest shock to [him] is when [DCS]
19 bought cribs” for the young children sleeping at DCS’s offices. As he acknowledged,
20 “[t]his is not the place to put a kid.”

21 **B. Because of the Shortage of Foster Homes, Members of the Non-Kinship**
22 **Subclass Are Frequently Placed Far from Their Home Communities.**

23 215. DCS’s failure to maintain an adequate array of foster homes harms members
24 of the Non-Kinship Subclass by causing them to be placed, or putting them at an
25 unreasonable risk of being placed, far from their home communities. Such placements
26 disconnect members of the Non-Kinship Subclass from family, friends, and neighbors, and
27 frequently lead to highly disruptive changes in schooling.
28

1 216. Only 31% of all children in foster care as of September 30, 2012, for whom
2 removal and current zip code information was available, were placed within the same zip
3 code as their homes. Moreover, nearly half of these children were placed outside their
4 home city.

5 217. Consultants retained by DES reported that in 2011, almost 60% of children in
6 state foster care were placed over an hour from their homes. As the consultant recognized,
7 “[t]his makes parent visits and services difficult and contributes to Ongoing staff driving
8 more hours and spending more time away from their other cases.”

9 **C. Because of the Shortage of Foster Homes, Members of the Non-Kinship**
10 **Subclass Are Frequently Separated from Their Siblings.**

11 218. For children entering state foster care, siblings can serve as a crucial buffer
12 against the emotional upheaval of being separated from their parents. Sibling relationships
13 can also promote resilience as children navigate the trauma of removal. In recognition of
14 the importance of maintaining sibling relationships, federal law requires states to make
15 reasonable efforts to place siblings together, unless contrary to a sibling’s safety or well-
16 being – a requirement echoed in Arizona state policy.

17 219. DCS’s failure to maintain an adequate array of foster homes harms members
18 of the Non-Kinship Subclass by causing them to be separated, or putting them at an
19 unreasonable risk of being separated, from their siblings. As of September 30, 2013, the
20 state child welfare agency failed to place all siblings together in 35% of cases, and failed to
21 place at least two siblings together in 24% of cases. Based on information the state child
22 welfare agency submitted to the federal government in 2012, in nearly 40% of cases when
23 at least two siblings entered out-of-home care, the state child welfare agency failed to
24 place them together. The State child welfare agency’s performance was nearly as bad
25 every year from 2008 through 2011. A DES official acknowledged in 2012 that it had
26 become more difficult to place siblings in the same home because of the shortage of foster
27 families and because more children stay in care longer.

1 220. A state assumes an affirmative duty under the Fourteenth Amendment to the
2 United States Constitution to protect a child from an unreasonable risk of harm once it
3 takes that child into its legal foster care custody.

4 221. Defendant McKay directly and indirectly controls and is responsible for the
5 child welfare policies and practices of DCS. The foregoing DCS policies and practices fail
6 to satisfy its affirmative duty to protect the Non-Kinship Subclass, including the Named
7 Plaintiffs, from an unreasonable risk of physical and emotional harm. These failures are a
8 substantial factor leading to, and proximate cause of, the ongoing violation of the Non-
9 Kinship Subclass's constitutionally protected liberty and privacy rights.

10 222. The foregoing policies and practices of DCS described herein constitute a
11 policy, pattern, custom and/or practice that shocks the conscience, is outside the exercise
12 of any professional judgment, and amounts to deliberate indifference to the constitutionally
13 protected rights and liberty and privacy interests of the Named Plaintiffs and other
14 members of the Non-Kinship Subclass. As a result, all members of the Non-Kinship
15 Subclass have been harmed or are being subjected to an ongoing unreasonable risk of
16 harm, in deprivation of their substantive due process rights guaranteed by the Fourteenth
17 Amendment to the United States Constitution.

18 223. These substantive due process rights include, but are not limited to: the right
19 of members of the Non-Kinship Subclass to protection from harm and unreasonable risk of
20 harm while in state foster care custody; the right to a living environment that protects the
21 physical, mental and emotional safety and well-being of the Non-Kinship Subclass; the
22 right to necessary treatment, care and services to prevent members of the Non-Kinship
23 Subclass from deteriorating or being harmed physically, psychologically or otherwise
24 while in state foster care; and the right to adequate caseworker supervision and monitoring
25 of the Non-Kinship Subclass's safety and well-being.

26 224. As of September 30, 2014, there were 9,454 members of the Non-Kinship
27 Subclass. The Non-Kinship Subclass is sufficiently numerous to make individual joinder
28 impracticable.

1 225. Named Plaintiffs' Fourth Cause of Action raises questions of fact and law that
2 are common to, and typical of, all members of the Non-Kinship Subclass. Such common
3 questions of fact include:

4 a. Whether DCS maintains an adequate number and array of foster home
5 placements for members of the Non-Kinship Subclass; and

6 b. Whether a shortage of foster homes subjects members of the Non-
7 Kinship Subclass to an unreasonable risk of being placed far from their families,
8 schools and home communities.

9 226. Such common questions of law include whether DCS's actions and inactions
10 violate the Non-Kinship Subclass's substantive due process rights to be free from harm
11 and an unreasonable risk of harm while in state foster care custody.

12 227. Named Plaintiffs will fairly and adequately protect the interests of the Non-
13 Kinship Subclass they seek to represent.

14 228. Named Plaintiffs and the putative Non-Kinship Subclass are represented by:

15 a. Attorneys employed by Perkins Coie LLP, an international law firm
16 with an office in Phoenix, Arizona, whose attorneys have extensive experience in
17 complex civil and public interest litigation, including class action litigation;

18 b. Attorneys employed by the Arizona Center for Law in the Public
19 Interest, a nonprofit legal organization based in Phoenix whose attorneys also have
20 extensive experience in complex civil and public interest litigation, including class
21 action litigation; and

22 c. Attorneys employed by Children's Rights, Inc., a nonprofit legal
23 organization whose attorneys have substantial experience and expertise in child
24 welfare class actions nationally.

25 229. The attorneys and organizations listed above have investigated all claims in
26 this action and have committed sufficient resources to represent the Non-Kinship Subclass.

1 230. Each Named Plaintiff appears by a next friend, and each next friend is
2 sufficiently familiar with the facts of the child's situation to fairly and adequately represent
3 the child's interests in this litigation.

4 231. Defendant McKay has acted or failed to act on grounds generally applicable to
5 the Non-Kinship Subclass, necessitating declaratory and injunctive relief. Plaintiffs'
6 counsel know of no conflicts between or among members of the Non-Kinship Subclass.

7 **FIFTH CAUSE OF ACTION – VIOLATION OF PLAINTIFFS' RIGHTS TO**
8 **FAMILY INTEGRITY UNDER THE U.S. CONSTITUTION**

9 232. Paragraphs 1-231 above are repeated and re-alleged as if fully set forth herein.

10 233. This claim is asserted against Defendant McKay in his official capacity on
11 behalf of all members of the General Class who have been assigned a permanency goal of
12 family reunification (the "Reunification Subclass").

13 234. Despite the fact that over 50% of children in state foster care have a
14 permanency goal of family reunification, the state child welfare agency is failing to
15 preserve family relationships after children are removed from their homes.

16 235. One of the principal ways that states preserve the family relationships of
17 children in foster care is to place siblings together when they are removed from their
18 homes, as required under federal and state law. In 2012, however, Arizona failed to place
19 siblings together in nearly 40% of cases when at least two siblings entered out-of-home
20 care. As of September 30, 2013, the state child welfare agency failed to place all siblings
21 together in 35% of cases, and failed to place at least two siblings together in 24% of cases.

22 236. Moreover, as alleged in paragraphs 215-217 above, the state child welfare
23 agency routinely places children in its care far from their home communities, knowingly
24 interfering with their ability to maintain connections with their families.

25 237. Another way that states preserve the family relationships of children in foster
26 care is to place such children, when appropriate, with one or both biological parents on a
27 "trial reunification" basis, while maintaining legal custody over the child. Arizona,
28 however, systematically fails to do so. As of September 30, 2014, only 0.21% of children

1 in state foster care custody (36 out of 16,990 children) were placed with their parents on a
2 trial reunification basis.

3 238. As of September 30, 2013, only 0.29% of children in out-of-home care (23 of
4 the 7,875 children) who had a permanency goal of family reunification were in a trial
5 reunification placement.

6 239. Similarly, only 1.6% of the children in care who exited to reunification during
7 federal fiscal year 2012 (60 out of 3,684) were in a trial home visit placement at the time
8 of exit. The national average was 37.5%. Moreover, only 0.5% of children in custody
9 during federal fiscal year 2012 (97 out of 21,267) had a most recent placement type of trial
10 home visit. The national average was 11.0%.

11 240. When children in state foster care custody are not placed with their families on
12 a trial reunification basis, DCS is under a legal duty to coordinate contact between these
13 children and their biological parents, as well as any siblings from whom the child may
14 have been separated when taken into custody. The state child welfare agency has
15 recognized that “there is a strong correlation between consistent and timely visitation and
16 positive outcomes for children who have been removed from their home. Regular parent-
17 child visitation, along with CPS Specialists’ visits with the child, are both associated with
18 achieving permanency and other indicators of child well-being.”

19 241. For 2012, however, the state child welfare agency reported that barely half
20 (51%) of children in out-of-home care whose cases were reviewed as part of the child
21 welfare agency’s PICR had visits with their parents and siblings at a frequency consistent
22 with the child’s safety and best interests. During calendar year 2013, a similarly low
23 percentage of children (56%) whose cases were reviewed in connection with the PICR had
24 adequate visits with parents and siblings.

25 242. The state child welfare agency’s poor performance in coordinating family
26 visits is no surprise given the long wait lists that children in foster care face before being
27 provided with transportation to and from, and supervision of, family visits. As of October
28 2013, there were 475 families waiting for such visitation services. Remarkably, the state

1 child welfare agency does not even track how long families have been waiting for those
2 services.

3 243. The state child welfare agency further impairs family relationships by
4 routinely failing to comply with its obligation to make monthly contact with the biological
5 parents of children in state foster care. During the six-month period from April 1, 2014
6 through September 30, 2014, 1,213 out of 2,528 (48.0% of) parents of children in foster
7 care with a case plan goal of reunification did not receive required visits from a state child
8 welfare caseworker.

9 244. Likewise, during the six-month period from October 1, 2013 through
10 March 31, 2014, 1,152 out of 2,496 (46.2% of) parents of children in foster care with a
11 case plan goal of reunification did not receive required visits from a state caseworker.

12 245. DCS recently reported that during 2013, caseworkers made concerted efforts to
13 have adequate contact with mothers in only 36% of cases reviewed, and with fathers in
14 only 18% of cases reviewed.

15 246. Not surprisingly, given the state child welfare agency's failure to make
16 adequate contact with the biological parents of children in foster care, the agency also
17 systematically fails to involve those parents in their children's case planning. During
18 2013, the state child welfare agency made concerted efforts to actively involve the child's
19 mother in case planning in only slightly more than half (54%) of cases reviewed, and to
20 involve the father in little more than a third (36%) of cases. According to DCS, "[c]ase
21 plans are not consistently developed and reassessed within required timeframes."

22 247. An all too predictable result of the state child welfare agency's failure to
23 preserve family relationships is that far too few members of the Reunification Subclass are
24 reunified with their families. Moreover, when reunification does occur, it takes far too
25 long.

26 248. The amount of time that members of the Reunification Class spend in out-of-
27 home care before being reunified with their families has also increased over time.
28 According to data prepared for the state child welfare agency, the percentage of children

1 who reunified within 90 days decreased from 30% for children who entered state foster
2 care in 2008 to 18% for children who entered such care in 2012; the percentage of children
3 who reunified within six months fell from 35% for the 2008 entry group to 23% for the
4 2012 entry group; and the percentage of children who reunified within one year fell from
5 44% for the 2008 entry group to 37% for the 2012 entry group.

6 249. DCS is aware of its poor performance. According to a 2014 agency report,
7 “[c]ompared to prior years, children are now less likely to exit to reunification, and they
8 experience longer lengths of stay before reunifying.”

9 250. The foregoing DCS practices interfere with the right to family integrity held by
10 members of the Reunification Subclass, and subject them to emotional harm and an
11 unreasonable risk of emotional harm.

12 251. Defendant McKay directly and indirectly controls and is responsible for the
13 policies and practices of DCS. The foregoing policies and practices fail to satisfy DCS’s
14 affirmative duty to protect the welfare of the Reunification Subclass, which failure is a
15 substantial factor leading to, and a proximate cause of, the violation of the constitutionally
16 protected liberty interests, privacy interests and associational rights of all members of the
17 Reunification Subclass.

18 252. The foregoing policies and practices of DCS amount to a policy, pattern,
19 custom and/or practice that is outside the exercise of any professional judgment and
20 amounts to deliberate indifference to the Reunification Subclass’s constitutional rights.
21 As a result, all members of the Reunification Subclass are being deprived, or are at
22 unreasonable risk of being deprived, of their liberty interests, privacy interests and
23 associational rights conferred on them by the First, Ninth, and Fourteenth Amendment to
24 the United States Constitution not to be deprived of child-parent or child-sibling family
25 relationships.

26 253. The Reunification Subclass has thousands of members and is therefore
27 sufficiently numerous to make individual joinder impracticable.
28

1 254. Named Plaintiffs' Fifth Cause of Action raises questions of fact and law that
2 are common to, and typical of, all members of the Reunification Subclass. Such common
3 questions of fact include:

4 a. Whether DCS engages in a practice of placing members of the
5 Reunification Subclass far from their home communities;

6 b. Whether DCS engages in a practice of failing to place members of the
7 Reunification Subclass in trial home reunification settings;

8 c. Whether DCS engages in a practice of failing to coordinate contact
9 between members of the Reunification Class and their biological families;

10 d. Whether DCS engages in a practice of failing to make required
11 monthly contact with the biological parents of members of the Reunification
12 Subclass; and

13 e. Whether DCS engages in a practice of failing to involve the biological
14 parents of members of the Reunification Subclass in the case planning of those
15 children.

16 255. Such common questions of law include whether DCS's actions and inactions
17 violate the Reunification Subclass's rights to family integrity, guaranteed by the First,
18 Ninth, and Fourteenth Amendments to the United States Constitution.

19 256. Named Plaintiffs will fairly and adequately protect the interests of the
20 Reunification Subclass they seek to represent.

21 257. Named Plaintiffs and the putative Reunification Subclass are represented by:

22 a. Attorneys employed by Perkins Coie LLP, an international law firm
23 with an office in Phoenix, Arizona, whose attorneys have extensive experience in
24 complex civil and public interest litigation, including class action litigation;

25 b. Attorneys employed by the Arizona Center for Law in the Public
26 Interest, a nonprofit legal organization based in Phoenix whose attorneys also have
27 extensive experience in complex civil and public interest litigation, including class
28 action litigation; and

c. Attorneys employed by Children's Rights, Inc., a nonprofit legal organization whose attorneys have substantial experience and expertise in child welfare class actions nationally.

258. The attorneys and organizations listed above have investigated all claims in this action and have committed sufficient resources to represent the Reunification Subclass.

259. Each Named Plaintiff appears by a next friend, and each next friend is sufficiently familiar with the facts of the child's situation to fairly and adequately represent the child's interests in this litigation.

260. Defendant McKay has acted or failed to act on grounds generally applicable to the Reunification Subclass, necessitating declaratory and injunctive relief. Plaintiffs' counsel know of no conflicts between or among members of the Reunification Subclass.

PRAYER FOR RELIEF

WHEREFORE, the Named Plaintiffs respectfully request that this Court:

A. Assert jurisdiction over this action;

B. Order that this action be maintained as a class action pursuant to Rule 23(b)(2), Fed. R. Civ. P.;

C. Declare unconstitutional and unlawful pursuant to Rule 57, Fed. R. Civ. P.:

1. DCS's and DHS's violation of plaintiffs' substantive rights to be free from harm and unreasonable risk of harm under the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

2. DCS's violation of the Reunification Subclass's rights to family integrity under the First, Ninth, and Fourteenth Amendments to the United States Constitution;

3. DCS's, DHS's and AHCCCS's violation of plaintiffs' rights under 42 U.S.C. §§ 1396a(a)(8), 1396a(a)(10)(A)(i)(I), 1396a(a)(43)(C), 1396d(a)(4)(B) and 1396d(r);

1 D. Permanently enjoin DCS, DHS and AHCCCS from subjecting plaintiffs to
2 practices that violate their rights;

3 E. Order appropriate remedial relief to ensure DCS's, DHS's and AHCCCS's
4 future compliance with their legal obligations to plaintiffs, including, but not limited to, the
5 following:

6 **1. Health Care Services Provided to Children in State Foster Care.**

7 DCS and DHS shall establish and implement practices to ensure that all members of
8 the General Class receive the physical, mental and behavioral health services to
9 which they are entitled under the federal substantive Due Process Clause. Likewise,
10 DCS, DHS and AHCCCS shall establish and implement practices to ensure that all
11 members of the Medicaid Subclass receive the physical, mental and behavioral
12 health services to which they are entitled under the EPSDT provisions of the federal
13 Medicaid Act.

14 **2. Availability of Necessary Resources for the Placement of**
15 **Children.** DCS shall establish and implement practices to ensure a minimally
16 adequate capacity and array of placements to meet the placement needs of the Non-
17 Kinship Class, including foster and HCTC homes.

18 **3. Family Contact and Visitation.** DCS shall establish and implement
19 practices providing for minimally adequate visitation between members of the
20 Reunification Subclass and their biological parents and siblings. DCS shall also
21 establish and implement practices to adequately provide for siblings in the
22 Reunification Subclass to be placed together in foster care.

23 **4. Caseworker Investigations.** DCS shall establish and implement
24 practices providing for minimally adequate investigations into reports that members
25 of the General Class have been abused or neglected.

26 **5. Parent-Caseworker Contacts.** DCS shall establish and implement
27 practices providing for minimally adequate caseworker visits with the biological
28

1 parents of members of the Reunification Subclass and for the involvement of such
 2 parents in the case planning of members of the Reunification Subclass.

3 **6. Monitoring/Enforcement.** The provisions of the Court order entered
 4 pursuant to Fed. R. Civ. P. 65(d) shall be monitored by a neutral expert monitor
 5 appointed by the Court. In addition, the Court shall have continuing jurisdiction to
 6 oversee compliance with that order;

7 F. Award to the Named Plaintiffs the reasonable costs and expenses incurred in
 8 the prosecution of this action, including reasonable attorneys' fees, pursuant to 28 U.S.C.
 9 § 1920 and 42 U.S.C. § 1988, and Fed. R. of Civ. P. 23(e) and (h); and

10 G. Grant such other and further equitable relief as the Court deems just,
 11 necessary and proper to protect Named Plaintiffs, the General Class, the Medicaid
 12 Subclass, the Non-Kinship Subclass and the Reunification Subclass from further harm and
 13 unreasonable risk of harm by DCS, DHS and AHCCCS.

14
 15 Respectfully submitted this 8th day of June, 2015.

16 **CHILDREN'S RIGHTS, INC.**

17 By s/ William Kapell

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2015, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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EXHIBIT B

New York Times - Gov. Jan
Brewer Overhauls Child
Welfare System

The New York Times | <https://nyti.ms/1hkFcv7>

U.S.

Gov. Jan Brewer of Arizona Overhauls Child Welfare System

By FERNANDA SANTOS JAN. 13, 2014

PHOENIX — Gov. Jan Brewer abolished Arizona’s beleaguered Child Protective Services on Monday, immediately transferring the task of safeguarding abused and neglected children to a new cabinet-level division over which she will have direct oversight.

The move, unveiled at the governor’s State of the State address, is part of an overhaul aimed at fixing the problems that have plagued the state’s child welfare system for years, though none of them quite like last month’s revelation that more than 6,500 complaints of abuse received by the agency’s hotline had been shelved before any investigation.

Ms. Brewer has been under intense pressure from child welfare advocates, as well as legislators from both parties, including some of her closest allies, who have long sought the reorganization of Child Protective Services under a separate structure. The agency operates under the largest of the state’s bureaucracies, the Department of Economic Security, which oversees dozens of safety-net programs, including cash assistance and health care benefits for the poor.

"It is evident that our child welfare system is broken, impeded by years of structural and operational failures," said Ms. Brewer, a Republican.

The change requires legislative approval, but it is unlikely to face significant opposition, given that it is the type of reorganization that most of her critics had sought. Ms. Brewer did not say how the agency would be funded.

The new agency, the Division of Child Safety and Family Services, will handle complaints and investigations of abuse and neglect, which have hit record numbers since the state's economy crashed in 2009, as well as foster care and adoption.

Charles Flanagan, director of the Arizona Department of Juvenile Corrections, will be in charge. He leads the team of legislators, prosecutors, child welfare advocates and state officials overseeing the inquiry into the ignored hotline complaints.

A version of this article appears in print on January 14, 2014, on Page A17 of the New York edition with the headline: Arizona Governor Overhauls Child Welfare.

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EXHIBIT C

In Harm's Way: A Report on
Policy Conflict that Fails
Children and the System
Established to Protect Them

ARIZONA VOICE FOR CRIME VICTIMS

IN HARM'S WAY

***A REPORT ON POLICY CONFLICT THAT FAILS
CHILDREN AND THE SYSTEM ESTABLISHED TO
PROTECT THEM***

Prepared For
The Honorable Richard Romley
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March 15, 2003

“Liana Sandoval was already dead on September 27, 2001, when a state Child Protective Services caseworker closed her file on the little girl, writing off allegations as “unsubstantiated” that her mother’s boyfriend was abusing her. The night before, Juan Velazquez confessed to police that he tied the 20-month-old girl with heavy wire to an 18-pound chunk of concrete and sank her body in a filthy canal.

Liana had been beaten to death, her head swollen from the blows of a grown man’s fist.

A month earlier, her father’s family had called CPS to report Liana and her sister, Isabella, then 3, were missing clumps of hair and covered in bruises, marks they thought had been made by Velazquez.

CPS did not take the girls from their mother.”

From The Arizona Republic, *The sad case of little Liana Sandoval*, Karina Bland, January 12, 2003

DEDICATION

This Report is dedicated to the children who have died from abuse or neglect in the last five years in Arizona and to Karina Bland, Laurie Roberts (The Arizona Republic), Mary K. Reinhart (East Valley Tribune) and Jonathan Elias and the Investigators (ABC 15), courageous journalists who have championed their cause:

Ramon Fausto
Vanessa Fausto
Cassandra Parker
Steven Young
Layla Molina
Adrianna Salsbury
Ali Al-Hussainy
Miguel Andrade
Brandon Garcia
Nicholas Contreras
Michael Costell
Joseph Bernal
Michael Ridenhour
Julia Avant
Christine Tuong

Jerrad Neal
Danielle Rhem
Anthony Nored
Stacy Tapia
Joseph Gutierrez
Emily Smith
Nichomah Crowkiller
Hunter Gibbons

Gabriel Cordova
Dillon Reed
Steven Witt
Serena Baca
Devon Hayes
Vanessa Reyes
Anthony Anderson
Brisa Lopez
Jenicee Carter
Aesialeigh Roqumore
Shaun Patterson
Tyler Atchley
Alanah Phillips
Valeria Rico
Kataryne Bell
Eduardo Reyes
Alex Ramirez
Ricardo J. Rogel
Sophia Avianeda
Taylor Boldt
Aleicia Putrow
Liana Venegas
Deontae Moore
Isaac Humer
Brittney Price

Jennifer Price
Angelita Durazo
Jordan Celestine
Regina Tate
Joshua Roberts

Reina Lopaez
Benjamin Picasso
Devin Jennings
Gustavo Turrentine
Anndreah Robertson
Joseph Alva
Baby Girl Porzel
Krystal Souza
Jordan Rader
Serena Schmidt
Julia Garrett
Jesse Cope
Jilian Mendoza
Marissa Barrios
Raymond Dauberman
Steven Greathouse
Dylan Greathouse
Steven Bedwell
Male child
Female child

ACKNOWLEDGEMENTS

This study would not have been possible without the efforts of many people who freely gave of their time and shared their insights and their passion to protect the safety of vulnerable children. To these people and organizations we extend a very heartfelt “Thank you.” Without in anyway diminishing the assistance of others, we especially acknowledge the tremendous help provided by Jamie Capobres, MSW; Billy Wilda from Grandparents United for Children’s Rights; Kristine Reich, MSW, Arizona State University, School of Social Work, for providing us very dedicated social work interns, Asha Joseph, Amaya Evans, and Richard Woodard, all of whom helped conduct our interviews and made terrific suggestions throughout the project; Sally Jones and her staff at Human Resource Training, Inc.; Patti Calus, who helped review research; and the Arizona Prevention Resource Center, Arizona State University, for giving freely of their guiding expertise; to Chief Harold Hurtt and many at the Phoenix Police Department for their time and cooperation; and, to Dr. Katheryn Coffman and Detective Chris Metalski for their expertise and dedication over the course of this project.

Finally, we extend our sincere thanks to the Honorable Richard M. Romley, Maricopa County Attorney, for his passionate commitment to the cause of justice for child victims, and to his staff for their professionalism, advocacy, and willing cooperation and assistance throughout the study.

Together, we hope to see a time when the children of Arizona will have a future safe from criminal abuse and neglect.

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INTRODUCTION: SCOPE OF STUDY, METHODOLOGY, AND DEFINITONS

This report is the conclusion of a study, conducted from March 15, 2002 through January 31,

2003, of public policy issues in Arizona arising out of the criminal abuse and neglect of children, and related substance abuse issues.^[1] It provides a policy overview of the legal and social systems that are established to protect children from criminal abuse and neglect and reports, from extensive field interviews, on views shared by many professionals in the field.

By “system” we mean essentially the social welfare system of child removal or family reunification, and the services attendant to these outcomes, operated mainly through the courts and the Arizona Department of Economic Security,^[2] and the parallel law enforcement system of investigation and prosecution of abuse and neglect crimes committed against children. There are many stakeholders engaged in, or deeply impacted by, both these efforts. First and foremost there are the children and their parents. Doctors, nurses, health care providers, social workers, teachers, school counselors, grandparents and other relatives, law enforcement officers, foster parents, private and faith-based providers of services to children and families, legislators and other government officials, prosecutors, judges, and crime victim advocates all play roles in our society’s protection of children.

These two systems, the law enforcement system and the social welfare system, acting in concert, although at times discordantly, more often as “ships passing in the night,” are intended by current law to work together to protect child safety, punish those who compromise it, and at the same time, try to strengthen and reunify families in which children have been victimized.

To conduct this study we undertook the following:

- 1) Compiled and reviewed all Federal and Arizona laws and rules governing the protection of children, including relevant substance abuse laws;
- 2) Compiled and reviewed selected case files from criminal prosecutions involving children who have been also the subject of abuse reports to CPS;
- 3) Compiled and reviewed relevant literature regarding the correlation between substance abuse and child abuse;
- 4) Conducted 163 interviews of people in key sectors of the system, including judges,

prosecutors, police, victim advocates, CPS workers, community service providers, foster parents, medical doctors, nurses, and social workers;

5) Compiled and reviewed relevant case law;

6) Researched public records relating to child abuse cases;

7) Studied the laws, rules, policies, and practices which govern and define how CPS responds to allegations of child abuse and neglect;

8) Studied the mandatory reporter laws which govern how covered professionals report allegations of child abuse and neglect;

9) Studied law enforcement and prosecution responses to allegations of child abuse and neglect; and

10) Compiled and reviewed relevant statistical information regarding the handling of allegations of child abuse and neglect.

Throughout the study we were in consultation with allied professionals working through Arizona State University's Prevention Resource Center, as well as professionals in the field from around Arizona and the nation. In meetings with these professionals, with representatives of the Maricopa County Attorney's Office, and with other organizational and community leaders in the field, we advanced and discussed various policy reform recommendations that make-up the focus of this report. The study does not intend to focus criticism on those working in the field; indeed, we praise the dedication of the men and women with whom we met, men and women who work tirelessly to protect children.

Interview Process

Interviews were conducted with 163 people representing key sectors of the system. This included judges, prosecutors, police, victim advocates, CPS workers, community service providers, foster parents, medical doctors, nurses and social workers. The purpose for these interviews was to allow the "voices from the field" to speak in their own words as much as possible.

In order to understand what opportunities may exist for performance improvements, the study set out to understand how the child welfare system functions and what changes could be made for

improvement. Each person was asked a series of questions related to their understanding of the system based on their experience and individual expertise. The questions involved the following:

1) Background information

- § Child abuse risk factors
- § Current caseloads and trends
- § Personal interests and expertise

2) Current role and issues with the child welfare system

- § What is their primary objective?
- § What is their opinion of the central purpose of the “system”?
- § How do they work together and interact with CPS?
- § What issues or barriers currently exist?

3) Recommendations

- § What should be your primary objective?
- § What should be the primary goal of the child welfare system?
- § What changes or suggestions would you make to improve child safety and protection?

In person interviews were conducted individually and in groups. The interview process involved open-ended questions. Each participant was provided an opportunity to respond to each question. Since some of the interviews were performed in a group setting, comments were occasionally made that were shared unanimously. They are recorded that way.

All interview responses were captured, tabulated and presented in the tables which follow. While uniform questions were asked to each participant, some additional questions were asked to respondents based upon their profession to better understand their unique role and vantage point in the system. This explains why some questions only have responses by certain professions and not all. Like-responses have been grouped and summarized as best as possible, trying not to change or dilute the responses that were given. Those comments that were shared by many respondents are identified as one comment and indicated by an asterisk (*). What is interesting and noteworthy is how often they do appear.

As stated earlier, the purpose and scope of this study was not to pursue an exhaustive academic analysis of the child welfare system. There is already a wealth of such reports. Rather the approach

was to search for and find a venue that allowed a diversity of voices to be heard. The 163 field interviews do not purport to represent a statistically valid sample of the professional fields they survey. Nonetheless, the surveys have reached deep into the community. It is the hope of this report that this venue of voices will prove to be a fruitful exercise. A summary of the 163 interviews conducted from March 1, 2002 to January 15, 2003 is provided.

Neither was the study designed or intended to be an examination of CPS or the County Attorney's Office. The study identifies policy conflicts which arise from a tension and at times an inherent inconsistency in the goals of protecting child safety and reunifying families.

In Chapter One we offer a return to basic principles of American government as the starting point to analyze our policy regarding criminally abused and neglected children. First among them is the principle that each child is "endowed" with "unalienable rights."

In Chapter Two we provide a historical overview and trace the evolving, and at times regressing, standards of treatment for abused and neglected children. We report on the recent legislative history in this long drama and observe the fundamental tension in the present policy goals of protecting the safety of the child and at the same time reunifying children into abusive families.

In Chapter Three we discuss the scope of the problem through the use of reported statistics. The study confirms the enormous, and under-reported, extent of the problem of child abuse and neglect. It raises questions about the rate of substantiated child abuse and neglect cases in Arizona.

Chapter Four offers an overview of current law, including state and federal statutory law, rules, and case law.

Chapter Five reports on the "voices from the field," and summarizes extensively the views and recommendations of 163 professionals who were interviewed as part of the study.

Chapter Six raises issues, and provides commentary.

Throughout, the study offers a view of critical issues in hopes of informing the current debate over how to create a system which most people passionately hope will rise to meet the challenge and the promise of its name...child *protective* services.

Defining Abuse and Neglect

Perhaps the first sign that something is amiss in our public policy regarding child abuse and neglect is the difficulty we seem to have of defining just exactly what it is. It is possible to find definitions of child abuse and neglect in the literature dating back decades.^[3]

Despite this there remains widespread confusion over whether child abuse is a crime (which it is), requiring a response by a police officer and a prosecutor (which in most cases does not happen), or a civil “family” matter (which it also is), requiring a social worker and prevention efforts (which are in too short supply and which may obscure the criminal nature of the conduct). In our public policy, the line of demarcation is not so clear, and the problem starts with definitions.^[4]

M.D. Martin, in a 1977 analysis, *Child Abuse and Neglect Research*, wrote, “The issue of defining abuse and neglect is one of central importance and logically precedes a discussion of incidence, etiology, and treatment. The vagueness and ambiguities that surround the definition of this particular social problem touch every aspect of the field – reporting system, treatment program, research and policy planning.”^[5]

Twenty-five years after Martin’s statement, with the federal government now spending over 9 billion dollars annually on the problem, there is still not a clear consensus on what child maltreatment is, why it occurs, nor what types of interventions are best to address it.^[6]

“Certainly, whether a given incident under consideration represents physical abuse or just simply an extreme form of parent-to-child discipline (e.g., beating vs. spanking/slapping) is not easy to determine; thus there are blurred distinctions between abusive and sub-abusive or non-abusive behavior. ... Different definitions have been used to examine the nature and extent of child physical abuse. The definition of child physical abuse in the Third National Incidence Study of Child Abuse and Neglect defined physical abuse as present when a child younger than 18 years of age has experienced an injury (harm standard) or risk of an injury (endangerment standard) as a result of having been hit with a hand or other object, or having been kicked, shaken, thrown, burned, stabbed, or choked by a parent or

parent-surrogate.”^[7]

Under federal law the term "child abuse and neglect" means, “at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.”^[8] This definition is a part of CAPTA, the Child Abuse Prevention and Treatment Act.^[9] CAPTA further defines “child abuse crime” to mean, “a crime committed under any law of a State that involves the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by any person.”^[10]

These definitions, used for field research by academics, or used by the federal government to govern grant-making or reporting decisions, are necessarily general. They are not “operational” definitions in the sense that they are not used to prohibit specific conduct. For operational definitions it is necessary to look to state law.

In the Legislature, differences of opinion and values are debated and either consensus is reached or majorities rule. This political process leads to state laws that identify the specific elements of unlawful conduct, and prescribe the consequences for engaging in it. Unlawful conduct may be a criminal act (e.g., murder), it may be a civil wrong (e.g., accidentally killing another), or it may be both (e.g., murder is also the tort of wrongful death.)

There is a clear national consensus that child abuse and neglect, at some level, is criminal conduct. Every state has enacted statutes that criminalize child abuse and neglect. At the same time, “child abuse and neglect” definitions also give rise to civil sanctions that can include termination of parental rights. The triggers for these actions are dependent on definition by the Legislature.

The first challenge is to define “child abuse and neglect” with sufficient precision that people of common understanding can know what conduct is prohibited. A statute cannot be “so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application.”^[11] Once we have defined criminal child abuse and neglect, by legislation, we must reach a common

understanding of what the consequences should be. Prison or jail, probation, “treatment,” fines, restitution, and loss of parental rights are all options.

The next challenge is to reach consensus on whether all child abuse and neglect, as the legislature defines it, should be criminal or whether there should be non-criminal child abuse and neglect as well. If so, how should it be defined? And what consequences should be imposed in the non-criminal cases? Permanent loss of parental rights, temporary loss, counseling and treatment to preserve or reunify the family are all options we have tried, all too often when children also have been victims of criminal abuse or neglect, because we did not focus closely enough on the differences.

These questions remain largely unresolved.

As a consequence, in our public discourse about child abuse and neglect, when we speak of “abuse,” some hear “spanking” and reflexively defend the “rights of parents.” Others hear “beating” and “torture” and reflexively condemn parents and push efforts to expand the state’s power over the family. When “neglect” is discussed, some hear “poverty” or “poor parenting skills” and push social welfare solutions; others hear “abandonment” and “crime,” and argue for a criminal sanction.

The intersection of these criminal and civil statutes is broad. Most of what justifies the termination of parental rights or a dependency is also serious criminal conduct. Yet we do not generally respond to child abuse or neglect in the same way we respond to criminal allegations. Evidence that a parent has “neglected or wilfully abused a child” is sufficient to justify termination of parental rights.

[\[12\]](#) A child “may be taken into temporary custody... if [it] is clearly necessary to protect the child because the child is either suffering or will imminently suffer abuse or neglect.” A.R.S. § 8-821 (B). Presumably then, because the standard is “may” and therefore discretionary, a child need not be taken into temporary custody under these circumstances, although in most cases the underlying conduct is a crime. Should the parent then be taken into “temporary custody” by way of an arrest?

What divides the line between criminal and civil cases? What is a crime and what is a problem that calls for a social worker? Would the invocation of the criminal law bring a seriousness to the matter

that might help in the long run? Or would it drive the problem underground? When are these two systems, the civil and the criminal supposed to work together? And why is the criminal system used less frequently?

Ultimately the operational definition of “child abuse and neglect” depends on each state’s statutes. Under Arizona law, criminal child abuse occurs when a person having care or custody of a child “causes the child to suffer physical injury,” or “permits a child to be ... endangered,” among other things. [\[13\]](#)

While we have grappled with these definitional issues for years, we have yet to summon the understanding, discipline, or collective will to resolve them. This failure is of more than academic interest. Children are the victims of our inability to resolve these debates with more clarity. There are times when we seek to “reunify” children with criminal abusers because we have not thought critically or clearly enough about the character of the abuse we confront. At times it seems as though we are paralyzed by uncertainty; that we lack the conviction to keep children safe because we are not sure of ourselves or the clarity of the moral principles that should govern our actions.

Nowhere is the moral confusion more clear than in the definition of “[p]rotective services” found in A.R.S. § 8-801. One might think the definition of the phrase “protective services,” when used in connection with the criminal abuse and neglect of children, might have something to do with protecting children from abuse and neglect. One would be wrong. Here is the definition in full flower of its bureaucratic splendor:

“Protective services” means an identifiable and specialized child welfare program that seeks to prevent dependency, abuse and exploitation of children by reaching out with social services to stabilize family life and that seeks to preserve the family unit by focusing on families in which unresolved problems have produced visible signs of dependency or abuse and the home situation presents actual and potential hazards to the physical or emotional well-being of children. The program shall seek to strengthen parental capacity and ability to provide child care.

Protective services is a program which “seeks to prevent...abuse...by reaching out with social

services to stabilize family life,” and at the same time “seeks to preserve the family unit... .” Fundamentally what this means is that perpetrators of criminal conduct are to receive “stabilizing” services and “victims” are to be sent back to their victimizers.

The challenge for our public policy begins with the need to reach consensus on the moral values we bring to the debate. For this, a return to first principles is necessary.

CHAPTER ONE: FIRST PRINCIPLES

At times it seems to be a system at war with itself, the easy target of critics and the faithless companion of friends. But the war over child protective services policy is a war of our own making. In our law we tell our beleaguered child protective services case workers that they must both protect the safety of the children in their care, while at the same time undertaking “reasonable efforts” to reunify criminally victimized children with their victimizers.

Indeed, the latest child welfare craze to sweep across the nation, “concurrent planning,” by its very name bespeaks the kind of mild schizophrenia which characterizes our public policy regarding criminally abused and neglected children. “Concurrent planning” is the label given to child protective services efforts that simultaneously plan a child’s permanent future both with and without his or her parents, where “both reunification and alternative permanency are pursued at the same time.”^[14] It would seem after more than a century of grappling with these difficult questions we would have found some better answers.^[15] As can be seen in the complex and contradictory approaches between the civil law and the criminal law, answers continue to elude us. Perhaps as with all things that are terribly hard, it has been easier to just look away.

When public policy seems to be veering off-course, or hopelessly complicated and enmeshed in contradiction, a resort to basic principles is always necessary, and that is how we begin this report.

America’s first principles are expressed eloquently in the Declaration of Independence. None

holds a place more central in our hearts or in our history than this: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men... .”^[16]

This principle binds each American to a culture of freedom that places the rights of the individual above the power of government. But it also binds us to a culture that protects individual rights against private encroachment, not just public. And so we say that government’s primary duty is to protect the natural rights of each person, from public or private infringement.

The “self-evident truth,” that each child comes into the world equally endowed at birth with “unalienable Rights” to life, liberty, and the pursuit of happiness, remains the core value of the American culture. It should be the foundation of all our public policy, including our policy regarding the criminal abuse and neglect of children.

Sadly for our society, and tragically for it’s littlest ones, we have not been faithful stewards of this first principle in our protection of the “self-evident” rights of children. Far too many are not free from criminal abuse and neglect in their lives, liberties, and pursuit of happiness. Far too many are victims of both abusers and the system that was designed to protect them. Every child born into this country ought to be heir to a legacy of freedom; to every child should be given the unalienable rights which our government promises to secure as the “blessings of liberty to ourselves and our posterity.”^[17] Indeed, we hold that it is the very purpose of government to secure these rights, and there is no exclusion for children.

Yet, somehow, we have lost our way. Somehow, the promise to each child of an endowment of unalienable rights has been forgotten, lost to the more powerful secular notion that children are the property of their parents^[18] and therefore not quite equal and not yet endowed.

To be sure, the State should not have the authority unreasonably to dictate to otherwise law-abiding parents how they will raise their children. Parents need to nurture their children, and children

must learn respect and the virtue of self-governance. But this means simply that parents owe a special duty *to* their children. However, today, in Arizona and across the nation, children remain trapped by government laws and policies in homes where they suffer the pain of criminal abuse and neglect. And we put them again and again in harm's way because of a policy that, in practice, values family preservation^[19] before child safety. In doing so, we betray our first principles and the legacy of freedom which was purchased for us at great price.

In our public discourse, we honor "family values," and so we should. Surely the family is the cornerstone of our civilization.

Within the family we should transmit our values as a nation. We should transmit the values of love and protection, of responsibility and industry and citizenship. The family must be honored and not undermined in our law.

But the family must never be a shield for criminality.

We honor the family in so far as it nurtures the growth of healthy and productive and free citizens; it is a means to actualize our freedom, not an end in itself. If a family becomes destructive of unalienable rights, it is the duty of a just society to restrain it, in order to protect more fundamental, unalienable individual rights. Indeed, it is precisely because of the importance of the family, that any assault within the family, which always threatens its strength and structure and cohesion, must be considered not only serious in and of itself, but also a grave threat to the strength of the nation, and, hence, a more serious crime.. Yet it is not so; not in our culture and not in our law.

Today, a criminal assault on a child, even a baby, committed within the family, can, depending on how it is charged, be no more serious an offense than the same assault by a stranger on a stranger. They both can be misdemeanors.^[20] An assault on a corrections officer or police officer is a more serious offense than the same assault committed against an infant or newborn baby.^[21] It is a class 6 felony in our state to subject an animal to cruel mistreatment;^[22] it is not even a crime to addict a child *in utero* to dangerous or narcotic drugs so that the child's first days after birth are filled with tortuous pain.^[23]

If a father assaults his daughter she may be forced to go to counseling with him, while she is forced to remain in his home.^[24] Surely it would be unthinkable for anyone to force the victim of a mugging by a stranger to go to counseling with her mugger.

It would seem that a well-ordered society, which valued the family, would treat crimes within the family as more serious offenses than crimes committed by strangers upon strangers. More is at stake when the crime occurs within the family, more harm to the victim and more consequent harm to society as a whole. Research now shows the profoundly harmful consequences that result from not intervening sooner in the life of a criminally abused or neglected child.^[25]

This study looks at our system of child protection and measures it against the philosophy of our first principles. It looks at the history of child abuse laws in America and Arizona. It identifies weaknesses in those laws and argues that we must make them stronger. It proposes that we unequivocally place the right of a child to be safe from criminal abuse and neglect at the center of every law, rule, policy, practice, procedure and process that we have regarding child and family welfare. It reports on interviews with persons on the frontlines of the struggle to keep our children safe. It summarizes many of their insights and reports their recommendations. It points out how the system is not only under-funded, but perhaps more importantly, under-conceived. It suggests that it is time finally to lift the veil of secrecy which shrouds our system of child protection.

How is it that we could be at a point in our history when it can be a more serious crime to mistreat an animal^[26] than to cause a baby an agonizing birth and death? The answers to this question are woven through the story of law and policy, of history and practice that follows here. And it takes us, ironically, to an intersection of animal and child welfare, in America, in the 1800's.

CHAPTER TWO: NATIONAL HISTORICAL OVERVIEW

In the 1600's, America was a harsh land for children. According to a special report by the Sacramento Bee, children were "relevant only as assets to their parents," and "poor, orphaned, or illegitimate children frequently were indentured to learn trades."^[27] By the 1700's, abandoned or orphaned children were sent to live in "almshouses," publicly funded shelters. Either relatives or strangers could claim the children for household workers and receive public funds as "foster parents," but there was little or no check on the well-being of the children.^[28] This system lasted well into the 19th century.

Then came Mary Ellen Wilson. In 1874, little 8 year-old Mary Ellen lived in the home of Francis and Mary Connolly. She was the illegitimate daughter of Mary Connolly's first husband. Etta Wheeler, a "friendly visitor" who worked for a faith-based mission^[29] learned from a neighbor that Mary Ellen was being mistreated and went to the home for a visit. "She found Mary Ellen chained to a bed, covered with bruises and scars and a cut on the left side of her forehead made when her 'foster' mother sliced her with a pair of scissors."^[30] Etta Wheeler sought help from both police and social service agencies in New York but was turned away. The police said no crime had been committed and the New York City Department of Charities said they could not act because they did not have custody of Mary Ellen.^[31] Because there were inadequate laws and institutions to protect children from abuse Etta Wheeler turned, with some tragic irony, to Henry Berge, the founder of the Society for the Prevention of Cruelty to Animals. Berge persuaded his friend Elbridge Gerry to take up Mary Ellen's cause.^[32]

The court removed Mary Ellen from her foster home and placed her in an orphanage.^[33] Ultimately the foster mother was imprisoned for a year.^[34] The case attracted significant coverage in the media and it led, in December of 1874, to the founding of the Society for the Prevention of Cruelty to Children.^[35] Almost immediately other child protection agencies were created around the country.^[36]

In 1912 Pres. Theodore Roosevelt championed the creation of the U.S. Children's Bureau, after convening the first "White House Conference on Children." The Bureau became responsible for oversight of children's institutions.^[37] In 1935 the passage of the Social Security Act created a funding framework which directed money to be used for the care of children who were neglected, abused or abandoned. However, by 1959, the Child Welfare League of America reported that the delivery of these social services was "uneven and discriminatory" and that children were removed from homes unnecessarily and that foster homes were too often "unstable and undesirable."^[38] It noted that few attempts to reunify families were ever made.^[39] While the report was followed by a growth of in-home services that child welfare agencies began to provide in the 1960's, in truth the four decades from the 20's through the 50's saw the memory of Mary Ellen fading in the public consciousness. Little attention in fact was paid to child abuse issues until the reawakening in the 1960's.

In 1962, Dr. C. Henry Kempe and his colleagues published an article in the Journal of the American Medical Association in which they identified the "battered child syndrome." It was seminal research that led, it is said, to a national rediscovery of child abuse. Kempe conducted a survey of eighty-eight hospitals in which he confirmed over 300 children who had been "battered,"^[40] many of whom suffered brutal multiple injuries. According to Duncan Lindsey, Kempe's report "ignited a broad-based national effort to find ways to protect children." This was 40 years ago. The report led to the enactment of mandatory child abuse reporting systems that were supposed to ensure that whenever a child was suspected of being battered, the case would be reported and some intervention would occur to protect the child. Here is how Richard Gelles describes the developments that followed:

Between 1963 and 1967 every state and the District of Columbia passed some form of child abuse reporting law. According to the public policy expert Barbara Nelson, these reporting laws diffused through the states five times faster than the average for public policy innovations between 1933 and 1966. There are various explanations for this speed. Certainly a model reporting law disseminated by the United States Children's Bureau, an agency within the then Department of Health, Education, and Welfare, facilitated the states' rapid adoption of reporting laws. Other model laws were drafted by the Council of

State Governments, the American Medical Association, and the American Academy of Pediatrics. Rather than confusing the state governments, these various model laws seemed to, in Nelson's words, "superheat" the demands for legislation.

Mandatory-reporting laws had a number of attractive features. First, they "legalized" the problem of child abuse. Second, mandatory –reporting laws were a sign that state government was "doing something" about the problem. Third, and not a trivial factor, was that of all the policy options available, reporting laws appeared to be the least expensive that could address the problem. The last assumption proved to be inaccurate. Physicians, legislators, and government officials had dramatically underestimated the extent of the problem of child abuse and the demand for services that would result from the reporting laws.

[\[41\]](#)

Arizona enacted its first mandatory reporting statute in 1964.[\[42\]](#) A nationwide count in 1967 confirmed 6,000 cases of *reported* child abuse. But a sample survey that accompanied the report estimated based on survey results that there were millions of unreported cases.[\[43\]](#) The under-reporting was attributed to only a small number of covered professionals actually knowing about the law, or knowing how to make a report under it.[\[44\]](#)

Public awareness campaigns and improved telecommunications technology, including the advent of WATS lines, brought an avalanche of reports. Gelles reports that in Florida, in 1970 alone, after a statewide toll free number was installed and a public awareness campaign advertised it, the number of reports went from 17 to 19,000.[\[45\]](#) In 1976 the National Center on Child Abuse and Neglect was newly formed and began to collect the first national data on child abuse reporting. That year the Center reported there were 669,000 reports of child abuse and neglect nationwide. By 1980 the number of reports exceeded 1 million.[\[46\]](#)

Richard Gelles has observed, "The enactment of the reporting laws in the 1960's essentially decriminalized child maltreatment – with the exception of homicides. Thus child welfare agencies bear almost the complete responsibility for investigating child abuse... [even though the conduct is criminal]."[\[47\]](#) And so the law of unintended consequences reasserted itself and a fundamental conflict

in our public policy toward criminally abused and neglected children began to emerge.

When a stranger rapes or assaults a stranger, the police are called and no one questions that a crime has occurred and that it should be investigated, the perpetrator apprehended and brought to justice. By the middle of the 1970's it was fairly well-established that the very same conduct when committed within the home did not lead to a criminal justice response with the key aim being the protection of the victim and society, but rather to a social welfare response directed at providing "services" to "clients." And children were left increasingly in harm's way, even as the ranks of children in foster care swelled. As Richard Gelles has summarized it, "In the 1960's through the 1970's, child welfare policy had focused on removing children from dangerous homes. As the number of reports of abuse swelled, so did the number of children removed from their parents. By the late 1970's nearly ... 500,000 children were in foster care."^[48]

The Child Abuse Prevention and Treatment Act (CAPTA) was passed by Congress and signed by the President in 1974.^[49] It provides federal funding to the States in support of prevention, assessment, investigation, prosecution,^[50] and treatment activities, among others. CAPTA also sets a minimum definition of child abuse and neglect.^[51] CAPTA has been amended several times since its original enactment, but continues as the principal source of authorization for federal funding assistance for State child abuse and neglect prevention efforts.^[52]

In 1977, the U.S. Supreme Court reviewed several social problems that began to develop in the child welfare system.^[53] Children were found to remain in foster care for years, on average more than four, with many remaining in the system indefinitely.^[54] The Court noted that funds promoted continued foster care rather than reunification.^[55]

Against this developing backdrop, the Congress enacted and the President signed into law the Adoption Assistance and Child Welfare Act of 1980.^[56] This Act is generally considered the most significant legislation in the history of child welfare.^[57]

In response to the foster care problem that had emerged in the 1970's, the Congress placed stronger emphasis on family preservation and reunification and extended these requirements to state child welfare systems. As Mary O'Flynn explains it, "Before enactment of P.L. 96-272, states could only receive federal reimbursement for cases in which children were physically removed from the home and placed in foster care. [Fn. omitted] P.L. 96-272 marked the first attempt by the federal government to provide financial incentives to states to reduce the time each child spent in foster care and to implement permanency planning for foster children. [Fn. omitted]."[58]

Among the more consequential of its provisions, P.L. 96-272 required that each State submit a plan that had to contain certain provisions as a condition to the receipt of federal money. Among the plan's requirements was a provision that "in each case, *reasonable efforts* will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home...."[59] Two contradictory philosophies emerged from the act.

The first was *permanency planning*, which assumed that prompt and decisive action to maintain children safely in their homes, or to place them as quickly as possible in permanent homes with other families, was the most desirable goal of child welfare services. The second goal was embodied in the words *reasonable efforts*

States had to demonstrate that they made reasonable efforts and that they were in compliance with the permanency planning provision of the law in order to qualify for federal funding for adoption and foster care

Despite the law's good intentions, it planted seeds of trouble. The goal of child protection services became safeguarding children while also working to reunite them with their abusive parents. The assumption was that these mandates could be balanced successfully. The reality was that the demands were contradictory.

One problem was the ambiguity around the very concept of "reasonable efforts." Nowhere in the federal legislation, state policy, or ensuing legal decisions in state courts were "reasonable efforts" ever clearly defined. As a result, child protection workers, administrators, and legal staff had no guidelines for how much or how long they had to make "efforts" at reunification before moving to permanent placements for abused and neglected children. Similarly, the inherent and dangerous contradiction between ensuring safety and attempting to reunite abusive parents with abused children was never publicly acknowledged by federal or state officials.[60]

Despite fundamental contradictions, support for family preservation and reunification programs crossed political and philosophical lines. Conservatives supported the new emphasis on family sanctity and the limitations on government intervention into the private sphere of the family; liberals endorsed the programs as continuing in the tradition of government welfare to needy citizens.^[61] The programs promised saving money, strengthening families, and protecting children all at the same time.

A decade after the passage of the Adoption Assistance and Child Welfare Act states were “running pell-mell into family preservation without fully considering the evidence for it,” according to sociologist Peter Rossi.^[62] The high point of the family preservation movement nationally may have been the enactment in 1993 of the Family Preservation and Child Protection Reform Act. Signed by Pres. Bill Clinton, the act has authorized hundreds of millions of dollars for family preservation programs. Richard Gelles calls the programs a “failure.”

The promises were compelling... and soon unfulfilled.

Family preservation programs relied on the “reasonable efforts” requirement of the federal law for their legal justification. The combination of these two factors, the growth of family preservation funding and the legal standard which supported it, led once again to unintended consequences.

The intent of the reasonable efforts requirement was to help families remain together by providing needed social services and to reunify families who were separated as a result of foster care. Without a clear definition of the term, it has been subject to varying interpretation, with unintended consequences for children and families. The legislative history of ASFA highlights some of the problems arising under the reasonable efforts term in P.L. 96-272. For example, in some cases social workers and the courts have been accused of interpreting the term too broadly and favoring parental rights over those of children by supplying services for extended amounts of time. The reasonable efforts requirement has been similarly criticized as placing children at risk by forcing children to remain in the system for unreasonable lengths of time.

The reasonable efforts standard was created to enhance family preservation and reunification services, rather than being used as a device to keep children in the foster care system for extended periods or to return a child to a dangerous or abusive home. The failure of P.L. 96-272 was vividly illustrated by a series of highly publicized child deaths nationwide and by the rapid growth of a

foster care population which more children enter than exit each year.^[63]

In 1997, Congress passed the Adoption and Safe Families Act.^[64] It was intended to address some of the problems that had arisen in the interpretation of the “reasonable efforts” requirement in the intervening 17 years since its first adoption.^[65] The Act extensively amended paragraph 15 of 42 U.S.C. §671a, by enumerating specific circumstances in which the Federal Government would not *require* “reasonable efforts” to “preserve and reunify families.” These circumstances include when the “parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse.)” Reunification services are not required when a child has been subjected to torture, *but neither are they prohibited*.

Arizona has enacted statutes that address the issues and child abuse and the requirements of the federal law that will be examined in Chapter Four.

CHAPTER THREE: THE SCOPE OF THE PROBLEM

National

In 2000, the latest year for which data is available, 3,000,000 calls came into child protection agencies nationwide concerning the welfare of approximately 5,000,000 children; of these referrals 62% were “screened-in” or accepted as reports.^[66] Screened-in referrals alleging that a child was being abused or neglected received investigations or assessments to determine whether the allegations of maltreatment could be substantiated. Thirty-two percent of the investigations nationwide resulted in a finding that the child was maltreated or at risk of maltreatment.

Approximately 879,000 children were found to be victims of child maltreatment. Maltreatment categories include neglect, physical abuse, sexual abuse, and psychological maltreatment. Almost two-thirds of child victims (63%) suffered neglect, 19% were physically abused, 10% were sexually abused,

and 8% were psychologically maltreated.

The rate of child victims per 1,000 children in the population was 12.2 in 2000, up slightly from the year before, but lower than the rate in 1993 (15.3). Within the child age population, victimization rates for children under three (15.7) were 3 times the rate for children 16 and 17 (5.7). Victimization rates were similar for male and female victims (male 11.2; female 12.8) however, girls were much more likely to be victims of sexual abuse (1.7 v. 0.04).

Approximately 1,200 children died of abuse or neglect in 2000, a rate of 1.71 children per 100,000 children in the population. Youngest children were the most vulnerable. Children younger than one accounted for 44% of child fatalities and 85% of child fatalities were younger than 6 years of age.

Arizona

Arizona child abuse reports from DES are compiled semi-annually on a fiscal year basis, so Jan.-Dec. calendar numbers are not routinely reported.^[67] However, in the 12-month period from April 1, 2000 to March 31, 2001 the numbers for Arizona are reported.

During the 2000 - 2001 reporting period, there were a total of 32,441 reports of child abuse, neglect and abandonment^[68] received by the central intake unit of DES Child Protective Services. (In the latest 12-month period the rate is running over 34,000 reports a year.) Of these reports, 3,070 were substantiated,^[69] representing a substantiating rate of 9.4% compared to the reported national rate of 32%. This comparison of substantiation rates raises a question which deserves further inquiry. Why should Arizona's rate be below the national average? Taking a closer look at the trends in Arizona reveals an issue which needs additional research. The report and substantiation data for the last several years is as follows:

	Reports	Substantiated	Rate
July 1, 1996 – June 30, 1997	38,229	14,394	37.6
July 1, 1997 – June 30, 1998	38,381	(NA)	(NA)
July 1, 1998 – June 30, 1999	32,631	3,629	14

Oct. 1, 1999 – March 31, 2000	16,301	1.524	9.3
April 1, 2000 - Sept.30, 2000	16,047	1,789	11.1
Oct. 1, 2000 – March 31, 2001	16,394	1,281	7.8
April 1, 2001 – Sept. 30, 2001	17,064	1,496	8.7
Oct. 1, 2001 – March 31, 2002	17,504	1,484	8.4

The chart raises the question of why the substantiation rates in Arizona dropped and have remained low. Are children in Arizona so much less likely to be victims of abuse and neglect? Are the investigations inadequate to determine what actually happened? Are there too few workers to investigate? Is the standard for substantiation somehow higher in Arizona than nationally? The answer to the question is particularly important when national substantiation rates are considered.

	U.S. Rate [70]
1996	28.5
1997	29
1998	26.2
1999	26.6
2000	28

In January of 1998 the state instituted the Family Builders Pilot Program which was designed to provide services to families who were the subject of “lower priority” CPS reports. [\[71\]](#) The lower substantiation rates may be related to the alternative way in which reports have been handled since the initiation of this program. They may be related to the appeals process the state has established or to the lack of clear guidelines as noted by the Auditor General’s Office in its November, 2002 Report. Equally curious is the drop in the absolute numbers of reports. From 1991 to 2001 the number of children 0 – 14

in Arizona increased by almost 50%.^[72] Can it be possible that the real numbers of reports of abuse or neglect have in fact gone down from 38,229 in FY 98 to 34,568 in the last annual reporting period? Or are different criteria being applied to qualify a call as a report? These questions deserve additional inquiry.^[73]

However the numbers of reports, investigations, and substantiations are measured, the raw numbers reveal an enormous challenge.

A.R.S. §13-3620 requires a health care professional who believes that a newborn infant may be affected by the presence of alcohol or a dangerous or narcotic drug to report the fact to CPS. But no law requires CPS to maintain, compile, and publicly report these births. Moreover, no law currently requires that law enforcement be called whenever a newborn is born affected. So we do not know the full scope of this problem.

CHAPTER FOUR: CURRENT LAW

One main theme emerges from examining the case law, statutes, and rules which follow: there is uncertainty, overlap, and ambiguity in the principles which govern how we apply the definitions of criminal child abuse and neglect in practice. How that uncertainty manifests itself is a question which requires a consideration first of the legal principles that are discussed in this chapter and next, by the voices of the experts we report in the next chapter.

U. S. Supreme Court

Parents' Rights Are Deemed Fundamental, But The State Has The Right And Duty To Protect Minor Children

Federal and State statutes addressing child abuse and neglect, child removal, or family preservation and reunification all exist in the shadow of the United States Constitution. The Supreme

Court of the United States has frequently emphasized the constitutional protection afforded the family. The rights to conceive and to raise one's children have been deemed "essential," *Meyer v. Nebraska*, 262 U.S. 390 (1923), "basic civil rights of man," *Skinner v. Oklahoma*, 316 U.S. 535 (1942), and "rights far more precious than property rights," *May v. Anderson*, 345 U.S. 528 (1953), "It is cardinal with us that the custody, care, and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder," *Prince v. Massachusetts*, 321 U.S. 158 (1944).

The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, *Meyer v. Nebraska*, the Equal Protection Clause of the Fourteenth Amendment, *Skinner v. Oklahoma*, and the Ninth Amendment, *Griswold v. Connecticut*, 381 U.S. 479 (1965). In *Stanley v. Illinois*, the Court found that the interest of a man "in the children he has sired and raised undeniably warrants deference and, absent a powerful countervailing interest, protection."^[74] However, Justice White, in his opinion, went on to foreshadow a circumstance when there may be just such a "powerful countervailing interest" when he wrote, "The State's right – indeed, duty – to protect minor children through a judicial determination of their interests in a neglect proceeding is not challenged here."^[75]

The Burden of Proof Required to Terminate Parental Rights: Clear and Convincing

In *Santosky v. Kramer*^[76] the Court held that before a state may sever completely and irrevocably the rights of parents in their natural children, due process requires that the state support its allegations by at least clear and convincing evidence. The Court noted the "historical recognition that freedom of personal choice in matters of family life is a fundamental liberty interest protected by the Fourteenth Amendment."^[77]

The fundamental liberty interest of natural parents in the care, custody and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. If anything, persons faced with forced dissolution of their parental rights have a more critical need for

procedural protections than do those resisting state intervention into ongoing family affairs. When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures.^[78]

Arizona Courts

The Rights Of Arizona Parents Are Fundamental, But Not Absolute, And May Be Terminated As Provided By The Legislature

Arizona Courts have repeatedly held that a parent's right to the custody and control of his or her children is a fundamental right guaranteed by the United States Constitution. A typical and recent description of this right is found in *Michael M. v. Arizona Department of Economic Security*:^[79]

A parent's right to "the companionship, care, custody, and management of his or her children" is a fundamental, constitutionally protected right, *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1212, 31 L.Ed.2d 551, 558 (1972); see also *Santosky v. Kramer*, 455 U.S. 745, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982), as is the right of association with one's children. *In re Maricopa County Juvenile Action No. JD-5312*, 178 Ariz. 372, 873 P.2d 710 (App.1994). These fundamental rights do " 'not evaporate simply because' the natural parents 'have not been model parents or have lost temporary custody of their child to the state.' " *In re Maricopa County Juvenile Action No. JS-500274*, 167 Ariz. 1, 4, 804 P.2d 730, 733 (1990), quoting *Santosky*, 455 U.S. at 753, 102 S.Ct. at 1395, 71 L.Ed.2d at 606.

The Arizona Supreme Court has expressed the general law and context in which child abuse and neglect issues and parental rights must be considered:

Severance of parental rights necessarily involves the consideration of fundamental, often competing, interests of parent and child. "This court and the United States Supreme Court have long recognized that the right to the control and custody of one's children is a fundamental one." *In re Maricopa County Juvenile Action No. JS-500274*, 167 Ariz. 1, 4, 804 P.2d 730, 733 (1990) (*Action No. JS-500274*). "[T]his fundamental right 'does not evaporate simply because' the natural parents 'have not been model parents or have lost temporary custody of their child to the state.' " *Id.* (quoting *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 1394-95, 71 L.Ed.2d 599 (1982)).

The right of a parent to custody of his child, however, is not absolute. The State can terminate parental rights under specified circumstances and

procedures. In Arizona, "[t]ermination of parental rights is ****685 *249** governed solely by A.R.S. § 8-533." *In re Pima County Juvenile Severance Action No. S-114487*, 179 Ariz. 86, 95, 876 P.2d 1121, 1130 (1994) (*Action No. S-114487*). To justify termination of the parent-child relationship, the trial court must find, by clear and convincing evidence, at least one of the statutory grounds set out in section 8-533, and also that termination is in the best interest of the child. See A.R.S. § 8-533.B. [\[80\]](#)

Duty to Reunify

Division One of the Arizona Court of Appeals has ruled reunification efforts must be undertaken in the case of a parent whose mental disability prohibits proper parenting. [\[81\]](#)

In *Mary Ellen C.*, the question was whether the state was required to make reasonable efforts to reunify the family before seeking severance on the statutory basis that the parent suffers "a mental illness of prolonged and indefinite duration." [\[82\]](#) The court noted that the requirement that ADES make an effort to reunify the family was based on "the fundamental liberty interest of the natural parents in the care, custody and management of their child." (quoting *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982)). The court concluded that "fundamental interests are no less involved in mental illness-based severances than in others" and that "termination of the parent-child relationship should not be considered a panacea but should be resorted to only when concerted effort to preserve the relationship fails." But the court also noted that the State need not "undertake rehabilitative measures that are futile," but only that it had "to undertake measures with a reasonable prospect of success." The court concluded, in order to terminate parental rights, ADES is required to prove, by clear and convincing evidence, that "it had made a reasonable effort to provide [the mother] with rehabilitative services or that such an effort would be futile."

In a later case the same court identified limits on the duty to reunify. In *Toni W. v. Arizona Dept. of Economic Sec.* [\[83\]](#) the court reviewed a case involving a mother who allegedly abandoned her child at birth.

In this opinion we address whether the Arizona Department of Economic Services (ADES) had a duty to offer reunification services to the mother

before petitioning for severance...

The mother argues that ADES had a duty to make a "concerted effort" to unify the family before terminating her parental rights pursuant to federal law and [A.R.S. § 8-533\(B\)](#)...

The federal law to which mother refers requires that, to be eligible for federal grants for child welfare services, ADES must have a plan for foster care and adoption assistance that, among other things, provides that reasonable efforts will be made to both prevent or eliminate the need to remove a child from the home, and to make it possible for the child to safely return to the home. [42 U.S.C. § 671\(a\)\(15\)\(B\)](#). These reunification efforts, however, are not required in all situations.

For example,

[R]easonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that--

(1) the parent has subjected the child to aggravated circumstances (as defined by State law, which definition may include but need not be limited to abandonment....) [42 U.S.C. § 671\(a\)\(15\)\(D\)](#).

Thus, the federal law has recognized the futility of requiring that "reunification services" be provided in an abandonment situation.

The United States Supreme Court has long recognized that the fundamental right of parents to the care, custody, and control of their children is protected by the due process clause of the United States Constitution. [Santosky v. Kramer](#), 455 U.S. at 753, 102 S.Ct. 1388. However, the Court has also recognized that "the mere existence of a biological link does not merit equivalent constitutional protection." [Lehr v. Robertson](#), 463 U.S. 248, 258, 103 S.Ct. 2985, 77 L.Ed.2d 614 (1983).

In the absence of such a [nurturing] parental relationship, a biological parent's interest in the child is nothing more than a genetic link, unaffected by a termination of parental rights.

This passage makes several things clear. First, some reunification efforts may be mandated on constitutional grounds, based on "the fundamental liberty interest of the natural parents in the care, custody and management of their child." [Santosky v. Kramer](#), 455 U.S. 745, 753 (1982).

Second, the right to reunification efforts, however, is not absolute. The Supreme Court has

recognized that "the mere existence of a biological link does not merit equivalent constitutional protection." *Lehr v. Robertson*, 463 U.S. 248, 258, (1983). As Justice White noted, "The State's right – indeed, duty – to protect minor children through a judicial determination of their interests in a neglect proceeding is not challenged...."[84]

Reunification efforts are not required, applying a fair reading of both federal and state law, to establish the statutory ground of abandonment. The law is clearer in the case of physical abuse.

Statutes and Rules

Just as Federal and State statutes exist in the shadow of the U.S. Constitution, so too the case decisions of the courts arise in the context of, and are decided in the shadow of, statutes passed by legislative bodies.

Federal Statutes

The principal federal statute remains CAPTA. CAPTA requires that a state, in order to be eligible to receive federal money for child abuse and neglect prevention programs, must have a "plan" that coordinates with the planning requirements for adoption assistance money [as set forth in the Adoption and Safe Families Act, see below] and, among other things, must contain:

- (i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;
- (ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;
- (iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;
- (iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;
- (v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians,
- ...

(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

...

(xii) provisions, procedures, and mechanisms ... that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction--

(I) to have committed murder (which would have been an offense under section 1111(a) of Title 18 if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(II) to have committed voluntary manslaughter ... of another child of such parent;

(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and

(xiii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xii), conviction of any one of the felonies listed in clause (xii) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

As originally enacted, CAPTA required “reasonable efforts” to reunify an abused child with his abuser. The “reasonable efforts” requirement has narrowed in the CAPTA requirements for the state plan and has been clarified and narrowed by the Congress through the Adoption and Safe Families Act of 1997.

After the Adoption and Safe Families Act amendments, 42 U.S.C. § 671a now provides that in order to qualify for grants to States for foster care and adoption assistance money, the State plan must:

(15) provide[s] that--

(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, *the child's*

health and safety shall be the paramount concern;

(B) *except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families--*

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home;

(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child;

(D) *reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that--*

(i) *the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);*

(ii) the parent has--

(I) committed murder (which would have been an offense under section 1111(a) of Title 18, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of Title 18, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(III) aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or

(IV) *committed a felony assault that results in serious bodily injury to the child or another child of the parent; or*

(iii) *the parental rights of the parent to a sibling have been terminated involuntarily;*

(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)--

(i) a permanency hearing (as described in section 675(5)(C)) shall be held for the child within 30 days after the determination; and

(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

(F) reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts of the type described in subparagraph (B).

These two federal laws, CAPTA and Adoption and Safe Families Act, drive much of what must be contained in Arizona statutes governing termination and dependency actions, and the CPS response to allegations of child abuse and neglect in general.

Confidentiality

CAPTA requires that States adopt “methods to preserve the confidentiality of all records *in order to protect the rights of the child and of the child's parents or guardians.*” (Emphasis added). It goes on to make several exceptions.

Arizona had responded to this requirement with A.R.S. § 8-807. The statute provides that “department records on specific cases of child abuse and neglect are confidential.” There then follows a long list of exceptions.

Criminal Child Abuse and Neglect in Arizona Statutes

The principal statute defining criminal child abuse is A.R.S. §13-3623. The elements of the offense focus on the standard of harm or likely harm to the victim. It is set forth here in relevant part:

13-3623. Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions

A. Under circumstances likely to produce death or serious physical injury, any person

who ***causes a child*** or vulnerable adult ***to suffer physical injury or***, having the care or custody of a child or vulnerable adult, ***who causes or permits the person or health of the child*** or vulnerable adult ***to be injured or*** who causes or ***permits a child*** or vulnerable adult ***to be placed in a situation where the person or health of the child*** or vulnerable adult ***is endangered*** is guilty of an offense

B. ***Under circumstances other than those likely to produce death or serious physical injury to a child*** or vulnerable adult, ***any person who causes a child*** or vulnerable adult ***to suffer physical injury or abuse or***, having the care or custody of a child or vulnerable adult, who ***causes or permits the person or health of the child*** or vulnerable adult ***to be injured or*** who causes or ***permits a child*** or vulnerable adult ***to be placed in a situation where the person or health of the child*** or vulnerable adult ***is endangered*** is guilty of an offense

C. For the purposes of subsections A and B of this section, the terms ***endangered and abuse include but are not limited to circumstances in which a child*** or vulnerable adult ***is permitted to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug*** in violation of section 13-3407, subsection A, paragraph 4.

...

F. For the purposes of this section:

1. ***"Abuse", when used in reference to a child, means abuse as defined in section 8-201, except for those acts in the definition that are declared unlawful by another statute of this title ...***

2. ***"Child" means an individual who is under eighteen years of age.***

...

4. ***"Physical injury" means the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.***

5. ***"Serious physical injury" means physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.***

It is a crime in Arizona to “cause a child to suffer *physical injury or abuse*” or to “cause or permit

a child... to be placed in a situation where the person or health of the child is endangered.”

“Physical injury” is defined within the statute. The definition expands the definition of the same phrase found in A.R.S. §13-105, by which “physical injury” means simply the “impairment of physical condition.” The definition of “abuse” is referenced to A.R.S. §8-201:

"Abuse" means the *infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage* as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to section 8-821 and is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212.

The elements of the offense focus on the definition of physical injury. Note again, “physical injury” means the *impairment of physical condition* and *includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.*

Parsing through the definitions, it is readily apparent that “causing a child to suffer any skin bruising,” for example, or “any impairment of physical condition or bodily function” or “serious emotional damage” is a felony. If it is done intentionally, and the circumstances are such that the conduct is likely to produce death or serious physical injury, it may be a class 2 felony, punishable as a dangerous crime against children (meaning the sentences are long and mandatory). “Serious physical injury” means physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

If the circumstances are other than those likely to produce death or serious physical injury, then

the abuse may be up to a class 4 felony, if it is intentional, and a class 6 felony (and therefore potentially a misdemeanor) if done with criminal negligence. An act is done with “criminal negligence” if the actor is unaware of a substantial and unjustifiable risk that the result (the child’s injury) will occur and that unawareness is a gross deviation from the standard of care that an ordinary person would observe. ^[85]

Neglect

“Neglect” is less clearly defined in the criminal law of Arizona. By inference, some “neglect” conduct is covered by the abuse statute. “Permitting” the “person or health of a child” to be “injured” or “endangered” ^[86] is surely a form of neglect. So is “permitting” a “minor’s” “health to be injured by neglect.” A.R.S. §13-3619 makes the foregoing a misdemeanor. It does not include a definition of the word “neglect.”

Dependency

A.R.S. §13-3612 makes “contributing to delinquency and dependency” of a child a class 1 misdemeanor. A “dependent child” is one, among several standards included in the statute, who is “found wandering and not having a home” or whose home is “unfit” by “reason of neglect, cruelty, or depravity.”

Assault

A person may commit an assault on a child by “intentionally, knowingly, or recklessly causing any physical injury,” or placing the child “in reasonable apprehension of imminent physical injury,” or “knowingly touching [the child] with the intent to injure, insult, or provoke.” ^[87] If the child is under the age of 16 the assault is an aggravated assault, punishable as a class 6 felony, which may be treated as a misdemeanor. ^[88]

Defining Child Abuse and Neglect for Termination and Dependency

Under our statutes, in addition to criminal sanctions, abuse and neglect may also lead to the state intervening into the parent-child relationship by terminating it or temporarily interrupting it.

Title 8 of the Arizona Revised Statutes contains the laws which govern dependency, termination,

and reunification issues. Key provisions are compiled and set forth in Appendix A.

A.R.S. § 8-533 (B) sets forth the “evidence sufficient to *justify* the termination of the parent-child relationship.” ^[89] Note that the word “justify” does not require the court to sever in any cases, but rather merely authorizes. Among its other provisions, the statute includes as grounds for termination that the parent has “abandoned the child” or has “neglected or wilfully abused the child.”

The statute also justifies termination when the child has already been removed and the state made “a diligent effort to provide appropriate reunification services” but , within a period of nine months or more after the removal of the child the parent has “neglected or wilfully refused” to correct the circumstances that led to the removal,^[90] or the child has been in an out-of-home placement for “a cumulative total period of fifteen months or longer” and the parent is unable to correct the circumstances that led to the removal and there is “a substantial likelihood” that the parent won’t change.^[91]

Additionally, the statute “justifies” termination if the child was removed from the parent, then returned after “diligent reunification efforts,”^[92] then removed again, and the parent is unable to change.

However, in each of the foregoing cases, the law requires again that the court “shall consider the availability of reunification services.”^[93]

Grounds For Removal And Due Process Protections

A.R.S. § 8-821, *et seq.*, governs the taking of a child into temporary custody. Under the statute, a “child *shall* be taken into temporary custody in proceedings to declare a child a temporary ward of the court to protect the child, pursuant to an order of the juvenile court on a petition by an interested person, a peace officer or a child protective services worker under oath that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect.” The statute continues that a “child *may* be taken into temporary custody by a peace officer or a child protective services worker if temporary custody is clearly necessary to protect the child because the

child is either: 1. Suffering or will imminently suffer abuse or neglect; or 2. Suffering serious physical or emotional damage that can only be diagnosed by a medical doctor or psychologist.”

Following taking a child into temporary custody, the statutes mandate notice and subsequent hearings to be held very quickly. In most cases written notice to the parents must be provided within 6 hours, in some cases sooner.^[94] Within five to seven days of the taking of the child into temporary custody, the court must hold a “preliminary protective hearing.” If the court finds “probable cause to believe that continued temporary custody is clearly necessary to prevent abuse or neglect pending the hearing on the dependency petition” the court may continue the temporary custody. Before this hearing there is an obligation for the parties to meet and attempt to reach agreement about the placement of the child.^[95] Throughout these statutes there is an emphasis both on using family-reunification services, unqualified by the extent of the abuse or neglect, and on the health and safety of the child; these two standards existing side-by-side in an uneasy coexistence.

If a child is determined to be dependent because of, among other things, abuse, neglect, or abandonment, the court may, nonetheless, award the dependent child “[t]o the care of the child’s parent’s, subject to the supervision of the department of economic security.”

A.R.S. § 8-861 provides that a child who has been removed from a parent, after the temporary custody hearing, on request of the parent, “shall... be returned to the child’s parent or guardian if the court finds by a preponderance of the evidence that the return of the child would not create a substantial risk of harm to the child’s physical, mental or emotional health or safety.”

The study has identified compilations of laws from other states that address child abuse and neglect. These statutes are attached as Appendix B. A summary of case law is attached at Appendix C.

Arizona DES Administrative Rules

The rules which have been promulgated by DES to further implement the foregoing statutes are contained in R6-5-5501 *et seq.* According to these rules a report of “child maltreatment”^[96] may not be “substantiated” unless “a CPS Specialist has concluded, after an investigation, that there is probable

cause to believe *an alleged abuser* committed an act of child maltreatment.” (Emphasis added). There is no statutory requirement that “maltreatment” may be substantiated only after identifying the abuser; it is merely a product of DES rule.

The rules further provide reports of child abuse or neglect may be referred for “alternative investigation” or to the family builders program.^[97]

When a decision to investigate an allegation is made, the rules permit the CPS Specialist to exclude or include the alleged abuser from participating in an interview with the victim. R6-5-5508 (C). When conducting the investigation, the rules allow, but do not require, CPS to consult with law enforcement. R6-5-5508 (B) (6). A.R.S. § 8-304 places primary responsibility for “the complete investigation of all complaints of alleged dependency” on “child protective services specialists” within DES.

CPS may “substantiate” a case of child abuse or neglect but determine there is no “risk of imminent harm to a child” and close the case. There is no definition of imminent harm, but the rules enumerate several circumstances where it might be found. The enumeration found in R6-5-5512 includes “severe or serious non-accidental injuries that require immediate medical attention.” Injuries not meeting this standard do not, in and of themselves, give rise to a finding of imminent risk. This means that recent, but healing, injuries do not qualify, even though they may have been “severe.”

In situations where “severe or serious non-accidental injuries that require medical care” are found, CPS is authorized, pursuant to its own rule, R6-5-5513, to allow the abuser to leave the home. R6-5-5511 (C) requires that “CPS shall offer a family voluntary protective services before filing a dependency action.” After removing a child, CPS has 48 hours to file a dependency petition, or return the child, R6-5-5514. A.R.S. § 8-821 now allows 72 hours.^[98]

There are substantial parallels in the definitions of abuse and neglect to the criminal statutes, so that the very same conduct that subjects a person to criminal prosecution also is grounds for termination or dependency. As noted above, A.R.S. §8-201 (2) defines “abuse” to include “the infliction or allowing

of physical injury.” Clearly conduct of this nature is also criminal. The decision to proceed one way or the other is not always made consciously with every stakeholder at the table.

In A.R.S. §8-201 (21), "[n]eglect" means the inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes substantial risk of harm to the child's health or welfare, except if the inability of a parent or guardian to provide services to meet the needs of a child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

These cases, statutes, and rules form the structure of the legal system our government, federal and state has constructed to address child abuse and neglect. Within this legal structure, real people must address the real problems of criminally abused and neglected children. How the system actually works, fails, and is perceived, is best heard in the voices of those professionals on the front lines. We turn now to their voices, the voices from the field.

CHAPTER FIVE: VOICES FROM THE FIELD: COMMENTS AND FIELD RECOMMENDATIONS

The foregoing chapters have provided an overview of Arizona’s case law, statutes, and rules; it is by no means exhaustive. To understand what professionals “in the trenches” are seeing, and to hear what they recommend the study went in to the field and conducted 163 interviews with key professionals.

No effort was made to select or screen the individuals for any particular views or philosophies.

No preconditions were set on what those interviewed could say. Every interview followed a list of set questions for consistency but no censorship was imposed on the views expressed. In the following chapter the views and recommendations that emerge are remarkably consistent given the diversity of professionals who were interviewed.

Throughout our report on “voices from the field” we have attempted to remain faithful to the concerns and recommendations as they were given to us. The “voices” are reported in the words that were given to us.

So let us turn to the professional voices from the field.

From September, 2002 to January, 2003 interviews were conducted with 163 professionals in the fields of law enforcement, prosecution, the judiciary, CPS workers, medicine and nursing, social work, foster parents, community service providers, and other allied professionals. The questions asked of each group are attached at Appendix D.

The results of the interviews, the opinions given and recommendations made are summarized below. A complete table of responses follows the summary narrative.

Purpose of the system, individual roles and interests

Regardless of their role in the child welfare system, from those interviewed, there is a consensus that the first priority of the system ought to be working for the safety and well being of children. Perhaps to state that is to state the obvious. Yet the surveys also reveal that this is too often not the first priority in practice, despite the best intentions of those who work to make it so. There is also a strong sense of advocating and helping children who have been victimized, along with protecting and preventing future or recurring abuse. Most, if not all of those interviewed indicated a strong commitment to children and desire to help families succeed (*see Tables 1-4*).

While most of the comments focused around child safety, protection and well-being, it was evident from the comments of CPS workers that they struggle with another perception of their mission – keeping families together.

Interface with CPS

Interaction typically takes place when CPS notifies the police, community service agency, or medical professional and vice versa. That notification can vary in both quantity and quality depending on the circumstances and individuals involved. It is evident that all of these professionals play a significant role and must work together to successfully provide for the safety of children (*see Table 5*).

Opinion of CPS

Of those who interact with CPS on a regular basis, most had issues with CPS (*see Table 6*).

Most police officers noted their problems with investigations when CPS is involved and the different timelines they operate under. Additionally, many others noted relationship problems and the recognition that CPS workers are overworked and lack the resources, training, and knowledge to do the job adequately.

More importantly, most felt their primary goal and that of CPS frequently conflicted. While those outside of CPS saw their primary purpose as child safety and protection, many felt CPS' focus was family reunification. When questions were posed to CPS workers regarding case planning and evaluation, many responded that they evaluated based on the primary goal of reunification (*see Table 7*). This goal conflict was also evident when CPS workers were asked questions regarding their understanding of "reasonable efforts" (*see Table 8*).

Examples of dissatisfaction

Police officers, physicians and medical social workers were asked to give examples of their dissatisfaction with CPS or cases they were aware of that resulted in a bad outcome. Multiple specific cases are noted in following areas: 1) multiple prior reports to CPS; 2) victims who recant their story or fail to cooperate; 3) lack of evidence; 4) children that should not have been reunited with family; 5) policy problems; and 6) examples where CPS failed to act (*see Table 9*).

COMMON ISSUES IDENTIFIED BY SURVEY PARTICIPANTS

Child Abuse Risk Factors

The top consensus responses among the different professions interviewed (*see Tables 10 and 11*):

- § Substance abuse
- § Financial instability and poverty

- § Lack of education and job skills
- § Families isolated with no family or community support
- § Stress or domestic violence in the home and/or a history of abusive relationships
- § Lack of parenting skills and teen parents
- § Mental illness
- § Continued domestic violence and/or mental health problems
- § Lack of support to correct problems in the home
- § The failure of the system

All of those interviewed stated that substance abuse is evident in the majority of cases they see. Parents who abuse drugs or alcohol are more concerned with the drug versus the welfare of their children. Male adults who use drugs often let their inhibitions down allowing sexual or physical abuse to occur. Women often physically abuse or neglect their children, because the kids are getting in the way of their drug use (*see Table 12*).

Caseload

Judges continue to see child abuse and neglect as pervasive social problems (*see Table 13*). They feel that these types of cases are more time consuming and require additional investigation and evaluation.

Police officers and detectives interviewed saw a wide range in caseloads. The typical response was in the 20 to 50 per month range, with some officers indicating a caseload as high as 70 to 100 open cases per month. All seem to agree that their caseloads are overwhelming. Some indicated that the ideal caseload needed to be less than 30 per month.

The average caseload of those CPS workers interviewed ranged widely as well -- most in the range of 12-20 on-going cases (children) per worker. High caseloads and the demands of the job were also noted as reasons for high caseworker turnover. When asked on average how many times a case worker can change on a case, some indicated 2-3 times while others noted the fact it could be higher.

Child abuse protocol

While most police officers and CPS workers understand that a protocol exists, many indicated they have difficulty following it for several reasons (*see Table 14*). Typically it had to deal with a lack of time and resources to follow it accurately or a general lack of knowledge or experience in how to handle cases. The tension between various police departments and CPS was also evident with many officers feeling that a breakdown in protocol by CPS can lead to problems in investigations. When the question was posed to police officers whether there should be a referral to law enforcement for every CPS case, the overwhelming response was no (*see Table 15*). Mainly due to the amount of manpower and resources it would take to do the investigations adequately. Respondents believed the police should do all criminal investigations and that CPS, should deal with non-criminal problems and help families. If there is overlap with matters that are also criminal CPS should be required to follow the protocol.

Timeframes

The conflicts between police departments and CPS in the time required to complete an investigation was also a major concern. While a CPS worker has their timeframe spelled out by priority, many police officers noted no real standard (*see Table 16*). Most would agree however, that these timeframes and expectations are unrealistic and many feel pressed for time to adequately do the job. When police officers were asked what time would be needed to finish the case, most recognized the fact that it needs to be completed as soon as possible to prevent further abuse and to increase the chances for a successful prosecution (*see Table 17*). Most police officers admit that the majority of the time they fail to meet a deadline they feel is necessary to successfully complete an investigation. CPS workers believe they complete timelines; however police officers and others expressed grave concern that they often close cases too prematurely and are reluctant to evaluate and monitor cases at an appropriate level.

Resources

Frustrations by the lack of manpower and resources were evident by those on the front lines – police officers and CPS workers (*see Table 18*). Others were also sympathetic to the fact that the system is overloaded without the proper resources to ensure the safety of all children. It is generally understood that more resources would allow the system to concentrate on quality versus quantity.

The issue of resources also came up when it came to placement options for abused and neglected children. Part of the reason many feel that children stay in a “risky” situation is the inability to place them elsewhere. Questions were even raised as to the quality of the placement options that were available, i.e. shelters and foster homes.

Training

The feeling of inadequate training and knowledge about all aspects of the system was evident in all the interviews that were conducted. While many, including CPS workers themselves, blamed the lack of skilled CPS caseworkers, others pointed the finger at all members of the system who need to have a greater understanding of child abuse and other family issues. Police officers themselves also indicated a strong desire for more training.

Family Services

All of those interviewed understood the need and value of excellent treatment and other resources to help families succeed. However, many raised the fact that the quality and availability of services was inadequate. Others questioned their effectiveness. Part of the problem stems from the voluntary nature of these services and that lack of accountability of families who agree to receive services.

Lack of Cooperation/Communication

Many raised problems when it came to working with each other. One CPS worker seemed to express it best when she indicated that it seems like the goal of the system “is not to work with other agencies.” Territoriality and a lack of accountability contribute to agencies operating in isolation from one another. There was evident a lack of communication and cooperation voiced by different members of the system throughout the interviews. In particular the need to share and receive vital information that will assist in the proper handling of cases from one member of the system to the next was needed. CPS confidentiality policies were viewed by many as a significant reason for this.

Legal and Policy Issues

A whole range of legal and policy issues were raised throughout the questioning of all individuals. Many of these issues that surfaced are addressed under the recommendations. Issues related to the vagueness of neglect laws; conditions in which an abuse or neglected child should be reunited with a family; what should be done with babies born substance-exposed; and the need for mandatory services to ensure that families receive the help that they need, are but a sampling of issues

raised (*see Tables 18, 19 and 20*).

RECOMMENDATIONS OF SURVEY PARTICIPANTS BY PROFESSION

Judges

The top recommendations among the judges interviewed include (*see Table 21*):

Resources

- § Resources available for parents to get help.
- § Provide adequate resources for dedicated professionals to do their job.

Policy

- § In all cases, the child's safety should be the paramount concern.
- § Look at all available research, as well as best case practices and determine what is appropriate.
- § Mandatory and combined training and certification on abuse issues for social workers and law enforcement.

Law changes

- § Statutes are not the problem; it's the lack of interest if there is no police involvement.

Prosecution issues

- § Ensure that professionals interview the children.
- § Lawyers need to take the time to fully investigate the facts and advocate for the best interests of children.

Prevention

- § Parenting education in schools.

Prosecutors

The top recommendations among the prosecutors interviewed include (*see Table 21*)

Resources

- § More manpower to be able to reduce caseloads and work more closely with CPS.
- § It needs to be easier to get CPS reports and information.
- § Need more prosecutors to handle caseload and further investigations that police don't.

Policy

§ Start with CPS, our biggest concern; again change the focus from unification to protection of the child.

§ Caseworker should have the discretion that a child is in imminent danger to make a decision with some degree of amnesty.

§ Parents should not be allowed to refuse services.

Law changes

§ Mandatory reporting law; needs to be less “wiggle room.”

§ Declare pre-natal and perinatal drug abuse to be child abuse.

§ Amend Rules of Evidence to allow introduction of prior conduct.

Prosecution issues

§ What needs to change is the attitude of our jury panel so they understand children are not the property of their parents.

Prevention

§ More efforts toward prevention, public education.

Police

The top recommendations among the police interviewed include (*see Table 22*):

Resources

§ Need more manpower/overtime to work the cases on a timely basis, limit caseloads.

§ CPS needs to have more funding and higher pay so they would get more competent caseworkers.

§ Not enough placement options or treatment when you do have to place children.

Policy

§ Better training for patrol; more accountability within department on protocol.

§ Detectives should be able to go out on every case, so that the case can be done properly the first time.

§ Should have a protocol as a state standard, you could have more agencies working together and on the state level we could all be mandated to handle cases in a certain way.

§ Policies are there; the problem is that they are not always enforced. We aren't able to follow

protocol.

§ Child Protective Services should get rid of their 21-day time line to investigate a case and follow lead of the detectives. The detective should be the first to interview the parent.

Law changes

§ Neglect laws need to be clarified and strengthened (too vague).

§ Need legislation for implementation and coordination of protocols, timelines between CPS and PD.

§ Another law that needs to be tougher is our stand on substance-exposed babies.

§ Have graduated laws that show the difference between a 16 year old and a 40 year old, etc.

§ The legislation should change the primary goal of CPS to child protection and not have them focus on the case plan of reunification; rather the case plan should be protection of the child.

Prosecution issues

§ All in all, the laws are pretty tough; we just need to follow them, use common sense, and prosecute more cases.

§ The county attorney's office has to take more cases and have a consistent policy when reviewing cases within the office.

§ False reporting needs to have more serious consequences and be prosecuted.

Prevention

More has to be done in the area of prevention, educate the public, media, and kids about the definition and scope of child abuse, public information campaign.

CPS Workers

The top recommendations among CPS workers interviewed include (*see Tables 23 and 25*):

Resources

§ The state must provide adequate human resources to do the job CPS is called upon to do.

§ Community needs better resources for marginal families. Tap resources to parents who have parenting skills and people who are available to care for kids

§ Group homes should be model facilities as an ideal alternative, bring back good orphanages.

Policy

§ If a mom delivers a substance-exposed baby then she should be mandated to stay in a treatment program.

§ Value Options must be held accountable for providing timely, quality mental health services

§ The agency must find a better way to serve the needs of families and children and to better protect children.

Law changes

§ Neglect needs to be more clearly defined, families held accountable.

§ The child should be the biggest priority, not adults.

§ Substance exposed newborns should be specifically addressed by the law.

§ Define “imminent danger” more clearly.

§ Tougher penalties for the crimes committed, laws stricter on child molesters.

§ Remove CPS from DES.

Prosecution issues

§ Better prosecution of abuse cases by county. 100% investigation.

Prevention

§ There is just need for more education, making sure that services are available for these families and being able to educate the client in all the resources and increase community involvement.

Community Service Providers

The top recommendations among community service providers interviewed include (*see Tables 24 and 25*):

Resources

§ The first thing – CPS needs more money. The case managers have so many cases, they are extremely short staffed.

§ Improve competency, training, and retention of CPS workers.

§ Foster parents need to be increased and improved upon with positive incentives and expectations.

§ Improve mental health services. Adequate mental health and therapeutic group homes must be developed.

Policy

§ Whether law or policy, CPS should be empowered with clear guidelines for removing a child from a home, should be able to intervene based on a preponderance of facts/evidence.

§ Improve collaboration in the system. Involve professionals in the cases as part of routine staffing and make sure their concerns are incorporated in the case plan.

§ Change mechanism for children to get medical and other resources needed in a timely manner.

§ Create a team approach to case planning to prevent arbitrary decision-making by CPS, mandated multidisciplinary teams, more extended monitoring and supervision of cases.

Law changes

§ Neglect and chronic neglect should be clarified and spelled out (presumption of neglect and abuse).

§ Move beyond reunification for severance or another avenue to keep children safe, balance between parent's rights and children's rights need's to be reprioritized.

§ Amend the child abuse laws to include substance exposed newborns.

§ More to be done to mandate services and to be able to act on it when a parent doesn't follow through, to help the child.

§ Parents should be held accountable and/or prosecuted for abuse or neglect, harsher laws.

§ More should be done in situations where a professional fails to report abuse when they are aware something is going on.

§ Create clearer roles at CPS and for community providers. There has to be accountability, none as it stands now. There is no accountability for the judges, no accountability for CPS.

§ Pull CPS out of DES

Prosecution issues

§ The court lacks education regarding substance & emotional abuse and what works with these

families and what doesn't work. All parties in the system need to be educated on what works.

§ There is not enough information sharing and collaboration among CPS and other agencies and this can hinder how CPS manages a case and the outcome of a case.

§ Law enforcement and CPS need to improve how they communicate with one another. Maybe PD can have access to the central registry and CPS can have access some police information. They do not always cross-refer. It would be nice to see CPS and officers go out together on these calls.

Prevention

§ Funding, health care, spending more on prevention: teen pregnancy, day care, parenting, substance abuse, and mental health information.

Physicians and Medical Social Workers

The top recommendations among physicians and medical social workers interviewed include (*see Table 26*):

Resources

§ Improve the quality and skill level of CPS workers.

§ Staff hospitals with CPS workers who understand medical terminology and can be the point people for the medical team and CPS system.

§ There must be an improvement in resources for safe and adequate discharge planning of medically at risk kids. CPS must be reorganized, restructured, re-staffed and adequately staffed.

§ Need better education of everyone involved in system. Need cross-training and better understanding of the role everyone in the system.

Policy

§ Better communication between the agencies and a real collaborative effort between the systems that would be more of a multi-disciplinary approach.

Law changes

§ Better laws to protect children not parents; make family preservation second and child safety first.

§ Confidentiality laws must be reviewed. Physicians & hospitals must have access to information to treat children medically and adequately.

§ There must be clarification of custody/ guardianship statues when abused children are hospitalized. Legal status must be guaranteed to provide medical caregivers the ability to treat and guarantee the child's protection and safety.

§ Improve neglect laws.

§ Harsher child abuse laws

§ Criminalize substance-exposed abuse and give parent ability to plea with services mandated by the court.

Prosecution issues

§ Better investigations including the use of medical documentation of opinions.

§ With respect to law enforcement, CPS and our work, we should compliment each other and we could make their job easier and they could make our job easier through collaboration.

Prevention

§ We need to focus on risk factors and prevention. Teaching kids life skills is helpful too. More ads in media about positive parenting, positive conflict resolution.

Foster Parents

The top recommendations among foster parents interviewed include (*see Table 27*):

Resources

§ Improve mental health services.

§ Foster parents need more respite time each year.

§ Some children need a special advocate for educational purposes (not just a surrogate parent).

Policy

§ Improve screening of new parents. Perhaps have seasoned foster parents be mentors for newcomers.

§ Better communication with G.A.L. and child's attorney.

Law changes

§ Establish appropriate laws and funds to effectively accomplish protection of children, and then employ necessary personnel.

§ Laws need to provide immediate removal when neglect or abuse is substantiated and drug use is present.

Prosecution issues

§ Better investigations, quicker removals.

Prevention

§ Change the mental health system to be more “proactive.” Services need to be provided to people/kids before they are in the “system.”

§ Provide more parenting classes and information and make it mandatory.

§ Everybody involved in system take responsibility to do their job.

Guardians Ad Litem

The top recommendations among Guardians Ad Litem interviewed include (*see Table 27*):

Resources

§ More case workers are needed and more money for services.

Policy

§ Home should not be preserved at all costs, we wait too long to file dependency.

§ Get all departments together and interacting.

Law changes

§ No laws to be changed need policy changes.

§ Make the parent more accountable for their actions.

Prosecution issues

§ More aggressive approach by the system, to make parents more accountable for their actions, be it jail or a fine, require more than minimal parenting skills of parents.

§ Courts need more authority to order services.

Prevention

§ Parents must only possess minimal skills – they are way too low.

In Harm's Way

TABLE 1
Central Purpose of the Child Welfare System

Judges	Prosecutors	Police	CPS Workers
<p>§ The safety and health of the children.*</p> <p>§ The paramount concern should be the safety of the children.</p> <p>§ To seek justice.</p>	<p>§ To protect those who can't protect themselves. There are different goals for each system.*</p>	<p><u>Protection/Safety</u></p> <p>§ To protect and preserve the safety of children.*</p> <p>§ To protect children whether it is through an immediate arrest and to thoroughly investigate allegations of abuse.*</p> <p>§ The protection of victim.*</p> <p>§ To protect children. It is a three fold thing: 1.The whole system is supposed to protect the child particularly the child that doesn't have protection at home. 2. To identify and prosecute the offender or those that commit crimes against children. 3. Find a way to get abused kids back on track to lead a normal and healthy life.</p> <p>§ All systems, as a whole, would be sharing a common goal which is to protect the child whose rights have been violated and to help that child.</p> <p><u>Provide Services/Reduce Trauma</u></p> <p>§ To reduce further trauma and to empower the victim. To hold the perpetrator accountable and also to prevent further abuse.*</p> <p>§ To stop child abuse. To provide services to the family and to aide in the prevention of abuse.</p> <p>§ Assess victim's needs and tend to them.</p> <p><u>Successful Prosecution</u></p> <p>§ To prosecute offenders.*</p> <p>§ To assist in the prosecution of cases we think we can win.</p> <p>§ To prosecute those offenders who have committed a crime as far as the system goes: to have an investigation prepared to the fullest extent and assess what ever needs the victim has and tend to those needs. It is the same thing for CPS.</p>	<p><u>Protection/Safety</u></p> <p>§ To ensure the safety of children.*</p> <p>§ To protect kids and ensure that children have a safe and healthy environment to grow in.*</p> <p>§ To protect children from physical, emotional and psychological harm.</p> <p>§ I also feel that every one is responsible for these kids and their safety.</p> <p>§ The parents are ultimately responsible for safety of their children.</p> <p>§ The goal is probably to protect the children.</p> <p>§ The main goal should be to keep the child and family safe and to provide services to help with some of the abuse in the family.</p> <p>§ To provide crisis intervention. To keep the children from being in danger of imminent harm and safe from the immediate danger. It is a very narrow focus, as we are the responders of last resort. However, this is muddy because of different factions in how the county and agencies see us, which is in very different roles and it leads to role confusion.</p> <p><u>Provide Services/Reduce Trauma</u></p> <p>§ To prevent generations of CPS families; stop the pattern.</p> <p>§ In social services, it is to provide services to the families.</p> <p>Keep Families Together</p> <p>§ In my agency, the goal is to provide services to families and try to preserve families and if that is not possible, to try to reunify families or move children to permanency.*</p> <p>§ We are a family centered practice.*</p> <p>§ In our case plan, our first goal is to preserve families and to set up a plan to reduce the risk factors in order to reunify the family.*</p> <p>§ We make sure that each case is dealt with expediently and in a proper manner and that each family has the opportunity to follow a case plan.</p>

In Harm's Way

TABLE 1 Continued...
Central Purpose of the Child Welfare System

Foster Parents	Community Service Providers	Physicians & Medical Social	Guardians Ad Litem
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		Workers	
<u>Protection/Safety</u> § To protect a child from abuse and to provide a supportive, safe and loving environment for them to grow up in.*	§ The whole system is so disjointed right now that you can't look at it as one system because it doesn't work as one system. § To process cases with as much efficiency as possible.	<u>Protection/Safety</u> § To ensure child safety and to find a nurturing home for every child. § <u>It is to ensure child protection within the context of the family.</u> § Child protection and family reunification.*	§ To get out of as many cases as they can without meeting the needs of the children. § 1. Protect Children 2. Reunify Families. 3. Find permanent placement. § The stated purpose is to protect children – We don't do it very well, we are ineffective. § Family Reunification § It is supposed to be to protect best interest of the child.
<u>Provide Services/Reduce Trauma</u> § To advocate for services. § To help a child recover from trauma. § To prepare them for their next placement. § To give encouragement and provide a child with a sense of family. § To prepare a child to become a productive member of society. § To provide education for the child.	<u>Protection/Safety</u> § To protect children.* § To assure a child's safety and give the child an opportunity to become a self-reliant and productive citizen. * § To ensure a safe and nurturing home for every child. To prevent further abuse and to promote the development of healthy children. § First and foremost, I think it is to protect children. § To protect kids and to try to make the best out of each situation. § To assure the safety of children. To find out and then advocate for what's in the child's best interest.* § Ultimately, all of us want that child to be in a safe and permanent home, whether it is law enforcement, CPS, the courts, etc. We would all be working toward the same goal. § To make children safe. To remove them and put them in a safe place. I think all of the systems try to work with each other. § It is the system's responsibility to protect children and to provide services that are in the child's best interest and not do what is always the easiest or take the easy way out. § The system provides a check and balance for everyone to be dealt with fairly. § To determine if abuse has occurred. § With all systems: it is to keep the child safe and to help the child find a stable environment.	<u>Prevention</u> § In reality, the current system seems to react in a manner that has the least impact on scarce resources. § The prevention of further abuse. To promote the development of healthy children. § The primary goal of the CPS worker should be to be proactive. We should be asking, "What are the risk factors?" Let's put our money there because it is so much more cost effective than to try to fix the broken families.	
	<u>Provide Services/Rehabilitate</u> § To assure a balance between parental rights and the rights of a child in order for the child to be safe at home. * § To provide parents and children with necessary resources. To prevent against future abuse and neglect. § To provide treatment and legal representation to parents and kids. § To try to help families, educate them, and help them learn the skills they need. § I think that trying to get the services through Value Options is a problem. Trying to get CPS and behavioral health to work together is a problem. § To rehabilitate offenders.		
	<u>Best Interest of Children</u> § People need to be more aware and focused on what each other's missions are and they all need to focus on the best interest of the child. § I think that CPS' sole purpose should be to look at what is in the best interest of that child while that child is still young enough to have a future.		

In Harm's Way

TABLE 1A
Should be Central Purpose of the Child Welfare System

Judges	Prosecutors	Police	Foster Parents	Community Service Providers	Physicians & Medical Social Workers	Guardians Ad Litem
§ The safety and health of the children.* § The paramount concern should be	§ To ensure the safety of the children.* § The primary goal should be the protection of kids. CPS is	§ First, the goal should be to protect the child. To make sure that we provide services to the victims i.e. medical and	§ To protect children and provide them with a good education.* § To focus on the best interest of	§ The protection of children and what is in the child's best interest.* § To ensure the safety of the child. * § To reprioritize child safety over the rights of parents.*	§ To protect children at all costs. Family preservation should come second to that. * § To ensure the safety and the well being of children.*	§ Remove children from unsafe situation and don't return them until it is safe be sure they are

§	the safety of the children. To seek justice.	concerned about protection but the emphasis on family unification. It isn't always the best way to go about it.	§	The presumption of family unification isn't the best presumption. It should be the presumption of child protection.	§	counseling. To provide the victim with resources to ensure their safety and to prevent the abuse from happening to them again.*	§	CPS seems confused on their purpose. As it stands now, CPS has a bigger interest in reunifying families.*	§	We focus too much on getting the suspect put away but I think of the children and what is going to happen to them.*	§	It is really hard to get these kids counseling and force them to go back and live in their same environment. Maybe getting them out of their environment and placed into a safer one would really help these kids.	§	To get a criminal case through the system from the beginning to end. It is all about making sure the kids are taken care of.	§	To take a stronger stand and to stop having lame plea agreements. They need to be sterner and offer the toughest pleas.	§	If you don't have the person indicted in a reasonable amount of time they can be released.	§	The goal is not being met with other agencies such as CPS because they don't have the resources to meet their goal. Some agencies don't have the manpower to meet their goals.	§	Everyone should be striving to achieve the same goal.	§	the child. 1. To rescue children who are in a crisis. 2. To reunify families. 3. To find permanent homes for abused kids.	§	Minimize the time for the removal of children. It should be after the first substantiated allegation of abuse. Then, provide them with an out of home placement to nurture them, aid in repairing them emotionally, and help them to prepare for their future.	§	To protect children and provide them with a safe home to grow up in.	§	For some people, the goal is to protect parent's rights but that should never be the goal.	§	The primary goal should be to find a strong and stable home with which the child can live and grow up in. It should be a healthy and strong stable home.	§	CPS should be able to place these children sooner and not give parents chance upon chance to get the child back, especially when they have not done anything to comply with the case plan.*	§	CPS needs to look at all aspects of abuse (physical, sexual, emotional abuse, and neglect) which can all be just as damaging to the child. To protect children exposed to drugs and alcohol. According to CPS, substance abuse is a lifestyle choice. Drug use is not considered abuse or neglect.	§	To keep children safe. Abusers who abuse children get less prison time than abusers do, who abuse animals. We need changes in the system.	§	To provide better resources to ensure child safety. We need better services for prevention & intervention.*	§	To protect the child and to have some kind of punishment inflicted on the offender; in a larger sense, to protect of the community from the offender.	§	The definition of the minimal parenting standard must be changed and enforced. We need a higher standard, in its current standing, it is less than minimal.*	§	To either reunite a child with a natural family or put the child up for adoption.	§	There must be better communication and collaboration among the agencies to ensure a child's safety.*	§	Right now a parent can refuse to talk with you, so how can that constitute an investigation?	§	To truly investigate allegations of child abuse.	§	To make sure that the time that someone is put	§	To create a better balance: children's rights first, then parent's rights. The welfare and safety of the child should be the number one priority.*	§	Better the collaborative efforts between all of the agencies to ensure child safety.*	§	To provide necessary and appropriate resources to ensure child safety. Child safety should be evaluated on a case by case basis.*	§	To remove the barriers. We shouldn't have to wait for approval from CPS to give care to a child and provide forensic medical care. AHIT never calls us and even when we call them for approval to conduct a forensic exam on a child, they say no.*	§	A multidisciplinary team approach to protect the child. A better quality assessment tool for targeting at risk families.*	§	Family preservation and kinship care should have better defined policies to deliver quality intervention. There goals should be specifically targeted to address the issues that can be realistically resolved in order to produce better outcomes and improve child safety.*	§	To be child advocate.	§	We need to preserve some families; but we also need to put a child into a nurturing home and sometimes it is not with the family. The child's needs should be the focus.	§	placed in a safe foster home	§	Provide services for the family to keep them together in healthy environment.	§	Place child in a safe loving home.
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				<p>away is commensurate with the crime.</p> <p>§ To go beyond protecting the child and serve the family.</p> <p>§ Ideally, it is to provide services for the protection of children and individuals, to help keep them safe and to help them overcome barriers in their lives, so that they can become productive citizens.</p> <p>§ To protect children and to support families. The paramount goal needs to be: to assure children are safe and that they have an opportunity to be self reliant productive citizens in the future.</p>	
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In Harm's Way

TABLE 2
Organization's Current Mission or Purpose

Judges	Police	CPS Workers
<p>§ Abuse and neglect are considered in deciding custody and parenting time. The family court may ask CPS to investigate if there are allegations or evidence of abuse or neglect.</p> <p>§ Child abuse and neglect are prosecuted as crimes in criminal court.</p> <p>§ A person who is charged with abuse or neglect comes before the judge to resolve the charges.</p>	<p>§ To investigate child abuse and sex crimes. To investigate allegations of abuse or incidents of abuse. To aid in the prosecution of crimes committed against children. *</p> <p>§ The protection of children and to be able to do something for these kids when they come forward and disclose the abuse. To be able to prepare for a successful prosecution and limit the future trauma to the victim. *</p> <p>§ To provide an interdisciplinary approach in the investigation of child abuse or neglect. To reduce further trauma to victim and to have a successful prosecution.</p> <p>§ We have to be able to respond in an appropriate time frame because the longer you wait the less success you have in prosecuting the case and having the case followed up correctly.</p>	<p>§ To ensure the safety of children. *</p> <p>§ To strive for permanency: we try to provide services to families to keep the child's permanency in the family if at all possible. *</p> <p>§ Reunification/relative placement *</p> <p>§ Overall, ensuring the well being of the children in our care is our goal; I'd say we accomplish it about 50% of the time. *</p> <p>§ CPS strives to achieve all three goals: safety, permanency and well being.</p> <p>§ To investigate allegations of abuse and to ensure the safety of child</p> <p>§ We strive to move children out of the system.</p> <p>§ Severance/adoption is the last resort in child protection.</p> <p>§ Placing children for adoption and striving for permanency is our goal.</p> <p>§ We can only provide for the needs of children if our contractual homes and service providers do their jobs well and provide these children with quality care.</p> <p>§ In central intake, we are very organized and the quality of our interaction is impressive and essential.</p> <p>§ I do believe that we strive for the goals of safety. In investigations, we assess the child's safety and we have 100% response rate.</p> <p>§ We look for safety in foster care placement and in the biological home and when the child is to return home we continue to assess safety once the child is in the home until the case is dismissed in court.</p> <p>§ We use reunification services and family preservation programs. We assist families in connecting with community services if we are not going to keep the case open or make the child a ward of the court.</p> <p>§ The job of CPS is to go out and assess the family environment and make sure the children are safe. We establish permanency as soon as we can. It was quite possible for a child to live in their home without a disturbance, after we made an effort to reunify the family. For the goal of child well being, we strive for family reunification; we try our best to make sure that children go back to live with their family.</p> <p>§ Our job: within a year, we determine if we should go for family reunification or severance based on the parents' response to our case plan. The plan includes the therapeutic recommendation. We try to find foster homes and adoptive homes for the children in case we do go for severance. In most cases we try to find a family member or guardians to keep the children in the family.</p> <p>§ By responding when we hear a kid may be at risk, we have pretty good system in place when we know we need to call people to go out if the kid is in danger.</p> <p>§ By moving the case along as quickly as possible, we try to provide services for the parents so they can get their kids back.</p>

In Harm's Way

TABLE 2 Continued...

Organization's Current Mission or Purpose

Community Service Providers	Physicians & Medical Social Workers	Guardians Ad Litem
<p>§ We advocate for the victim's rights. *</p> <p>§ We work on building and strengthening families for children *</p> <p>§ Child Help USA is dedicated to the prevention and to the treatment of abused children.*</p> <p>§ <i>EMPACT Mission:</i> To build strong families and communities by helping AZ youth and adults cope effectively with the challenges of life. This is achieved through compassionate and innovative prevention, counseling, crisis, and training services.</p> <p>§ <i>East Valley Child Crisis Center:</i> We believe in focusing on little kids, giving shelter and on strengthening families and community education, awareness, and prevention.</p> <p>§ We serve all victims of sexual abuse, physical abuse and neglect and not only do we serve victims but their families as well. Part of what we try to do is not just to provide the services to these families, but also, to provide solutions and prevention resources.*</p> <p>§ Basically to empower battered women and their families and to prevent and stop domestic violence.</p> <p>§ To provide support for DES and to provide stability for the family</p> <p>§ CASA: It all comes back to the same thing it is what is in the child's best interest: protect the child and keep the child safe. To give the child as many opportunities as possible to help make sure that the child can lead a healthy and productive life. To keep the child safe.*</p> <p>§ To recruit and train community volunteers to advocate for the best interest of the children who are wards of the court. We work with kids that have been abused and neglected.</p> <p>§ <i>Local School:</i> Promoting self-proficiency. Our job is to help them to become better. To help families get off of the welfare system.</p> <p>§ <i>JFCS:</i> Strengthens the community by helping people find solutions to different life circumstances. To help families in a variety of ways.</p> <p>§ The mission of <i>West Valley Child Crisis Center</i> is to provide temporary shelter and supervision for children who are victims of, or at risk of, abuse, neglect or abandonment, in a safe, nurturing, home-like environment staffed by quality care providers and to interact with the community to increase awareness of, and work to prevent, the cycle of child abuse.</p> <p>§ To give the best possible care to children. To provide hope, healing and the best possible care to children and families.*</p> <p>§ End the cycle of domestic violence by providing a variety of resources and education.*</p> <p>§ To be a part of the support system made available to victims.</p> <p>§ We provide foster case management.*</p> <p>§ We are a direct Service/residential care provider to juveniles who have fallen through the cracks.</p> <p>§ Our agency reviews foster care placements.</p> <p>§ Ombudsman: To make state government more responsive to citizens and to be sure that the agency treats citizens fairly.</p> <p>§ Victim Advocate: To assist victims during the criminal justice process by educating them, empowering them, reducing trauma and we provide needed resources to other agencies.*</p>	<p>§ To give the best possible care to children and their families. *</p> <p>§ Maricopa County Health Systems: Mission is to care for AHCCCS patients and undocumented pediatric patients. 75% of patients are Latino.</p> <p>§ St Joe's mission is to basically take care of and treat all patients who are in need of medical treatment, especially the most vulnerable in our society.*</p> <p>§ To provide hope and healing.*</p> <p>§ We treat all patients who are in need of medical attention.*</p> <p>§ To provide excellent healthcare to inner-city, poor, insured and uninsured patients.*</p> <p>§ To provide safe discharge plans for medically needy or at-risk children or children who have experienced health problems, abuse or neglect.*</p>	<p>§ To advocate for the child's best interest. *</p> <p>§ To talk to the child if possible and to talk to the guardians or the parents. To inspect where the child lives and to obtain necessary records such as, medical and educational records. *</p> <p>§ To follow rules of procedure set out by Supreme Court. As GAL I need to be familiar with child and child's case.</p> <p>§ Follow Rules of Professional Responsibility.</p> <p>§ Defend the child's best interest.*</p> <p>§ To assess the child's placement for appropriateness; assess the caretaker; determine if the child is well groomed; determine if the child is suffering from any trauma.</p> <p>§ Determine the child's needs, physically look at the child for abuse or neglect, and look at the child's surroundings.</p>

In Harm's Way

TABLE 3

Central Purpose or Primary Goal of Individual

Judges	Prosecutors	Police	CPS Workers	Foster Parents	Community Service Providers	Physicians & Medical Social Workers	Guardians Ad Litem
<p>§ The primary goal of family court is stated in Rule 6, Maricopa Co.</p>	<p>§ We don't necessarily see eye to eye on CPS and what their goals</p>	<p>§ Investigate to see if a crime has been committed *</p> <p>§ Investigating and gathering</p>	<p>§ To place a child in a safe environment. *</p> <p>§ My goal is to preserve and</p>	<p>§ To nurture and give guidance, love and compassion. *</p>	<p>§ To be an advocate for the children. To find out what is in the best interest of the</p>	<p>§ We evaluate and treat children and families in</p>	<p>§ Being a GAL is the only true neutral person acting in</p>

§	Local Rules of Practice. Fairly and impartially administering justice while attempting to “search for the truth” § To ensure the best interests of the children are being met.	are. Our goals are different than theirs. I think we are more focused on the protection of the child. CPS’ focus is on family reunification and a lot of times we don’t feel that the family should be unified. * § To prosecute child crimes and, in order to file charges on someone who has committed child abuse, we have to believe that there is a reasonable likelihood of conviction and there has to be probable cause to be able to charge them with a felony. * § To seek justice. § To ensure victim’s rights. § To seek references and provide assistance to victims. § To comply with “Mission Statement” of the County Attorney’s Office. § We have a high standard to meet in the prosecution of cases. In our office, it is a team approach.	all of the facts in an unbiased report and determine if a crime has been committed. § Investigate crimes against children, sexual assault, and focusing on what is best for the child. § To close cases and not get complaints. § To reduce trauma to victims of crime, utilizing a multi-disciplinary approach. § To protect children and make sure they are not re-victimized, whether it is child abuse, neglect or sexual abuse. § To put the evidence together and prepare an appropriate report for the county attorney for review and hopefully, they will take the case and push for a successful prosecution.	unify the family.* § To make sure I assist workers in investigating child abuse allegations and to ensure that they know how to deal with physical abuse and neglect.* § To create permanency for the child § My unit is long term foster placement; we still focus on reunification even when kids are in long term foster care. § To remove children from abusive situations. § To take the best report I can and present the information in a clear, compete and precise manner. § To try to help the families that needs it.	§ To provide protection. * § Create a desire for education. * § To be a nurturing and caring role model and try to understand what the foster child’s needs are and address them. § To teach children their own worth and respect for others § To be a positive role model and give them a positive experience that they can take with them. § To prepare children for independent living.	child and to see how it is carried out.* § To recruit, train and support volunteers and families.* § To provide services to strengthen families and to prevent abuse.* § To help families and consumers reach a higher level of functioning.* § To protect children.* § To provide excellent care for children from birth through age 12 who have been abused and removed from the families or the families have been in a crisis.* § To ensure that a child has trusted adult to see on long-term basis. § To provide monitoring to the home in the least restrictive environment. § Use a family systems perspective, and look for the root of the problems. § To support victims of crime and help them with their immediate needs. § To interview children regarding allegations that they have made or disclosed to someone regarding sexual abuse, physical abuse or neglect. § To identify and prevent the gaps in the system that prevents justice to battered women. § Certainly the basic goal is to get information out about child abuse and neglect and the need for community involvement. § To help families to be self	cases of abuse.* § We provide healthcare to meet the needs of patients.* § We provide advocacy and resources to patients.* § To provide high quality medical care to children. § To provide a safe discharge plan for our patients. § We provide emotional support to families in crisis. § To identify and help children at risk.	child’s best interest. Make sure case plan is appropriate and carried out. Looking at long term best interest. § Advocate for child. § Advocate for best interest of child and to facilitate the placement § Act in best interest of children. § Watch out for kids best interest
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					<p>sufficient with employment once the family is “family sufficient.”</p> <p>§ To assist callers the best way we can.</p> <p>§ To identify problems in CPS’ procedures and policies and recommend changes. To identify the problems through investigating complaints on an individual basis.</p>		
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In Harm’s Way

TABLE 3A

Should be Central Purpose or Primary Goal of Individual

Judges	Prosecutors	Police	CPS Workers	Foster Parents	Community Service Providers	Physicians & Medical Social Workers	Guardians Ad Litem
<p>§ The primary goals of the family court are stated in Rule 6, County Local Rules of Practice.</p> <p>§ To ensure the best interests of the children are being met</p> <p>§ Fairly and impartially administering justice while attempting to “search for the truth”.</p>	<p>§ To protect children.*</p> <p>§ To seek justice and to pursue the investigation of the case. To see the case through to the end.</p> <p>§ The prosecution of crimes against children.</p> <p>§ I think all of us would like to feel more confident in our ability to protect children but the way things are structurally set up with CPS controlling our ability to keep abusive parents away from their children during the pendency of criminal prosecution is somewhat limited.</p> <p>§ I think the reality is that CPS grants reunification during the pendency of a case, that is</p>	<p>§ To investigate sexual and physical abuse.*</p> <p>§ To protect children.*</p> <p>§ The most important goal is to make sure these people are successfully prosecuted and not to push paper. To ensure that children are first and foremost protected.*</p> <p>§ To keep the investigation as unbiased as you can.</p> <p>§ To investigate crimes against children by using a multidisciplinary team approach.</p> <p>§ To safeguard the children and protect the community.</p> <p>§ To help kids. I don’t know if the cases are being done justice, we don’t have the time to devote to them that they deserve. There are cases of kids falling through the cracks.</p> <p>§ To reduce further trauma to</p>	<p>§ Our main goal is child safety and protection.*</p> <p>§ We help families to try and provide a healthy environment for their kids.*</p> <p>§ To create permanency for the child.*</p> <p>§ Finding the balance between enforcement and keeping families together whenever possible.</p> <p>§ To prevent generations of CPS families and to stop the pattern of abuse.</p> <p>§ To try to help the family.*</p> <p>§ The safety of children; we have the responsibility to reunite them in some way with their family.</p> <p>§ To be a critical thinker about discerning</p>	<p>§ To nurture and give guidance, love and compassion.*</p> <p>§ To help create a desire for education.*</p> <p>§ To provide protection.*</p> <p>§ Provide a positive role model and experience to take with them.*</p> <p>§ To teach children their own worth, respect for others</p> <p>§ Prepare children for independent living.</p> <p>§ Try to understand what the foster child’s needs are and address them.</p>	<p>§ To build and strengthen families for children, to help families and consumers reach a higher level of functioning.*</p> <p>§ To find out what is in the child’s in the best interest and go after it whether it is foster care, adoption, stay with parent.*</p> <p>§ Whatever the family needs to prevent child abuse in the home.*</p> <p>§ To recruit, train and support those volunteers, social workers that serve children.*</p> <p>§ To advocate/support victims of crime for their immediate needs.*</p> <p>§ To interview children regarding allegations that they have made or disclosed to someone in a regarding sexual abuse, physical abuse or neglect; prosecute and incarcerate abusers.*</p>	<p>§ We make every effort in being proactive in trying to address the risk factors. We try to identify early on families and children who are at risk and we work with other people to try and develop initiatives to try to prevent abuse.*</p> <p>§ Our focus is on children’s healthcare and safety.*</p> <p>§ To protect the child in the future from re-abuse but I would like to see an overall goal of reducing childhood injury.</p> <p>§ To</p>	<p>§ To advocate for the best interest of the child.*</p> <p>§ To get to the children early; stop a second generation of following in the parent’s footsteps.</p> <p>§ To make sure that the child is getting the services they need without all of the red tape.</p> <p>§ To see that every child is in a safe and loving home.</p>

	going to occur whether we think it is appropriate or not.						
	§ It is also a philosophical question, our job is to do criminal prosecution of people we believe violate the statutes, while we would like to ensure the safety of the children, statutorily it is not our primary goal, although it can be very frustrating.	§ Informal goal; to educate the public, children and adults in what child abuse really is.	§ Protection and reunification can pose a conflict; you have to weigh the pros and the cons of the situation. I wonder if we should be a child centered practice instead of a family centered practice.		§ Protect victim from being further traumatized.	advocate for our patients and provide resources to them.*	
	§ When a court orders no contact, there is no one going out to make sure that it doesn't happen. If CPS isn't involved, there is no one going out to see if that is happening.	§ We should be looking at protecting children and we should work hard to put the offender away.	§ This is a parent's rights state. I would say it is the safety of children. Let's really make protection a priority, big time. Reunification would be fifth on my list.		§ A larger responsibility is to try to help make the system better and stronger so the kids can be in a home sooner and a safer home, one that is supportive of a child.	§ To be able to collaborate better with other agencies so we don't duplicate our efforts and are able to make good use of our resources.	
	§ Make sure the victim's rights are being upheld.	§ To keep children safe.			§ Just placing a child in a home is only the first step and we need to make sure the services are there for the child to stay in that placement.		

In Harm's Way

TABLE 4
Personal Interest and Expertise

Prosecutors	Police	CPS Workers	Foster Parents
<u>Interest:</u> § Clearly it is the most rewarding prosecution that there is, when you have child victims and you are protecting children.	<u>Interest:</u> § It has always been an interest of mine.* § I realized I liked working with kids and I wanted to help the youngest victims who are the most vulnerable.* § I began working at the Domestic Violence Unit and found it interesting. After that, I wanted to work here. § I always had an interest in kids; I used to be a resource police officer at a school. § Investigations have always been an interest for me and it is what I always wanted to do. § When I have a real live victim and I can make a difference in their life, then, that is what really matters.	<u>Interest:</u> § I care about children and wanted to do work that is meaningful. § I enjoy working with the community and knowing that I am making a difference with each family. § I've always wanted to work with people. § It is my desire to want to learn more about child welfare. My number 2 desire is to be able to work with families who have many needs. § After I received my social work degree, I went out to save the world.	<u>Interest:</u> § I was working at a children's shelter and realized that a lot of children needed foster homes.
<u>Training:</u> § More training is always better. § We should have a general medical library here. § Domestic violence, sexual assault and staffing seminars for shaken baby syndrome-maltreatment. § Child abuse seminars. § Forensic interviewing seminars. § Training on neglect cases and how to prosecute.	<u>Training:</u> § Child maltreatment training. § 40 hours forensic interview training.	<u>Training:</u> § CPS Pre-core and Core training.* § I would say the training that the agency (DES) makes us do is completely useless.* § Residential treatment for teens and children.*	<u>Training:</u> § Minimum 12 hours a year required training on topics related to foster care.* § Training on communication, discipline, child development and working with other professionals.* § Classes attended on child behavior. § All services available to foster parents should be published § Training on handling

<p>§ Child pornography.</p> <p>§ Computer crimes.</p> <p>§ Child homicide.</p> <p>§ Burn training.</p> <p>§ Medical aspects of maltreatment.</p> <p>§ Shaken baby syndrome.</p> <p>§ Interviewing and interrogation training.</p> <p>§ Domestic violence training.</p> <p>§ Child sex exploitation training.</p> <p>§ Training is becoming more and more available.</p> <p>§ Not enough training.</p> <p>§ Yes, could always use more training.</p> <p>§ Lots of training, basic and advance. Budget concerns-can't go to all the training you want.</p> <p>§ This department has a very strong emphasis on learning new skills and in training.</p> <p>§ Training is emphasized to sharpen your skill and be able to be better educated in the areas that you are working in.</p> <p>§ When I first arrived I had no training and it was ridiculous. I think we do a lot better now.</p> <p>§ Training is a continuing process and with our with budget problems, we are slowing down on out of state training.</p> <p>§ When I came here I got some immediate training but it took a while to understand child maltreatment and how to handle child crimes.</p> <p>§ During the course of being at this unit, I have received a lot of training. It comes down to money. Currently, funding is limited.</p> <p>§ I received a lot of training formally and informally on the street. In this unit no one can truly prepare you for the sensitivity you have on these cases.</p>	<p>§ Forensic interviewing.*</p> <p>§ We need more hands on field training/mentoring.*</p> <p>§ CPS experience in Florida system.</p> <p>§ Foster care case management.</p> <p>§ We need more training in medical terminology and child maltreatment.</p> <p>§ Preschool education.</p> <p>§ Court training.</p> <p>§ CHILDS training.</p> <p>§ Training specific to policy, effects of drug use, effective case plans, case management and cultural diversity.</p> <p>§ Have received adequate training.</p> <p>§ Montessori teacher, masters in social work.</p> <p>§ I think we are on the right track with our training institute.</p> <p>§ Bachelor's degree in justice studies and a Masters degree in Psychology.</p> <p>§ I think I have received more training than the other workers. I think that the training the state offers is excellent and much better than what other states are doing.</p> <p>§ Needs to be more training in policy, extra case management classes/ court/ policy/ hands-on. The problem is in management and training.</p> <p>§ You never feel you received adequate training in child abuse.</p>	<p>§ aggressive behavior.</p> <p>§ Feel I was adequately trained.</p> <p>§ Past experience includes working in mental health field & pre-service training.</p>
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In Harm's Way

TABLE 4 Continued...
Personal Interest and Expertise

Community Service Providers	Physicians & Medical Social Workers	Guardians Ad Litem
<p><u>Interest:</u></p> <p>§ My desire to help people and to be treated, as I would like to be treated in a crisis situation.*</p> <p>§ I like working with people, especially families and children.*</p> <p>§ I had a passion for kids, children and families.*</p> <p>§ To protect children and look out for their well-being.*</p> <p>§ I like talking to kids and relating to them and helping them to meet their needs.*</p> <p>§ I like working with little kids and the CPS system even though it is a horrendous task.</p> <p>§ I was interested in the field of counseling.</p> <p>§ I have always worked for the underdog.</p> <p>§ I wanted to be a social worker ever since I was a child.</p> <p>§ I have always worked in the field of child abuse prevention.</p> <p>§ I have been given the opportunity to serve more kids than I would have if I had chosen any other venue of social work.</p> <p>§ My experience is in educating and supporting parents.</p> <p>§ I followed in the footsteps of my family. They have always been into the field of Social Work.</p> <p>§ You learn something all the time. Kids make you feel accepted. I enjoy the happiness I get out of working with children.</p> <p>§ I believe parents need support and help through the most difficult job we have, which is parenting.</p> <p>§ To empower people who are dealing with a basic crisis and I get a lot out of helping people with extreme vulnerabilities, I find it rewarding.</p> <p><u>Training:</u></p>	<p><u>Interest:</u></p> <p>§ I help families navigate through the system.</p> <p>§ We maximize the child's protection and advocate for the child.*</p> <p>§ It is caring for children and wanting to make a difference.*</p> <p>§ I took the child abuse job and I ended up finding it to be very rewarding. I have been in the field ever since.</p> <p><u>Training:</u></p> <p>§ Pediatric medical social work.</p> <p>§ Substance abuse assessment.</p> <p>§ Developmental and family systems expertise.</p> <p>§ Medical healthcare of children.</p> <p>§ Providing assessments, education and understanding the impact of acute and chronic illness in children.</p> <p>§ Would be experts in training other agencies and professionals in child abuse.</p> <p>§ Expertise is diagnosing child abuse and neglect.</p> <p>§ Prevention, health, development, and general well-being of children. In</p>	<p><u>Interest:</u></p> <p>§ I was brought out of retirement to establish this unit.</p> <p>§ I enjoy juvenile law.</p> <p>§ My desire to help children.</p> <p><u>Training:</u></p> <p>§ Did not receive adequate training.*</p> <p>§ Did receive adequate training.</p> <p>§ Law Degree, significant study in psychology, my husband is a psychologist.</p> <p>§ Law Degree, in law for 20 years.</p> <p>§ Law Degree, on job training/self training seminars.</p> <p>§ Law Degree and on job training.</p> <p>§ Court appointment for 20 years.</p>

<p>§ Adoption adjustment issues.*</p> <p>§ Being able to withdraw information from people unwilling to give it.</p> <p>§ Normal child development and the problems and consequences of neglect and abuse.</p> <p>§ Would like contacts with County Attorneys and CPS.</p> <p>§ Understanding the child welfare system.</p> <p>§ Care and keeping of community volunteers.</p> <p>§ Foster care/adoption worker.</p> <p>§ Counseling.</p> <p>§ Child advocacy.</p> <p>§ Juvenile probation.</p> <p>§ Mental health.</p> <p>§ Master of Social Work.</p> <p>§ Foster parent.</p> <p>§ Parenting Educator.</p> <p>§ Youth Development theory expertise.</p> <p>§ Criminal justice.</p> <p>§ Social work.</p> <p>§ Counselor.</p> <p>§ Expertise is supervision of behavioral management teams with children and families.</p> <p>§ Master's is in clinical psychology.</p> <p>§ Understanding the child welfare system within AZ.</p> <p>§ Retired school teacher.</p> <p>§ Diverse background when it comes to abuse and neglect issues.</p> <p>§ Bachelors in education and a Masters in communication.</p> <p>§ Been involved in Child Welfare for 25 years.</p> <p>§ Domestic Violence and Child Sexual abuse experience.</p> <p>§ PhD in Psychology.</p>	<p>§ general, pediatric medicine.</p> <p>§ It is critical in understanding the other discipline's roles in working together for the protection of children.</p>
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In Harm's Way

TABLE 5
Interface with CPS

Judges	Prosecutors	Foster Parents	Community Service Providers	Physicians & Medical Social Workers
<p>§ We have CPS workers testify in criminal, family, and juvenile courts.</p> <p>§ To be active and manage cases to achieve the results necessary for the child.</p> <p>§ They attend regular hearings to ensure the requirements are being met.</p>	<p>§ Usually, if there is an arrest made then the police may contact them. If we file charges and an arrest has not been made, then CPS may not be involved.</p> <p>§ Usually when the police make an arrest, they are supposed to cross refer to CPS. They always do when they have to get the children in the home placed.</p> <p>§ We always request the CPS record and we get back a response that there is no record filed with CPS. That is how we know CPS is or is not involved. CPS records are not user friendly.</p> <p>§ It is CPS' job to notify the police or vise-versa.</p> <p>§ Ordinarily the CPS case has been closed before the case reaches this stage.</p>	<p>§ Once a month contact with the child.*</p> <p>§ We have little contact with the GAL.*</p> <p>§ I have little contact with child's attorney.*</p> <p>§ The worker provides me with good information and good communication.*</p> <p>§ Some CPS workers try to make an effort to see the foster children once per month. Other workers go months without seeing the child.</p> <p>§ Some case managers don't visit often as they should (up to six-month lapse).</p> <p>§ Our licensing agency works well with CPS.</p> <p>§ There is minimum connection with the child during placement. Interestingly, contact with the child typically occurs right before court and when the case is going to be heard at the Review Board. Many CPS case managers act like they are not very interested or "too busy" to be concerned about a relationship with the foster child.</p> <p>§ Their visits last approximately one hour</p>	<p>§ We accept children from CPS for placement.*</p> <p>§ We interface with CPS when a child is involved in a court action.*</p> <p>§ I assist callers in contacting CPS. We refer callers to them.*</p> <p>§ We call CPS when they need to take a report, when we need CPS to take guardianship when it becomes necessary.</p> <p>§ CPS is housed within the same building and they go out of their way to help out.</p> <p>§ We have developed a good relationship with CPS. We work hard with workers who are completely overwhelmed and we help them to do their jobs by assisting them in getting things done in their caseloads.</p> <p>§ We work very closely with CPS in staffing assignments and attending court hearings. Additional activities include working with the case manager in reviewing what is going on in the child's life and interviewing other people related to the child.</p> <p>§ We are working hopefully, toward similar goals.</p> <p>§ Our community volunteer's support a child victim and they interface with CPS caseworkers.</p> <p>§ If there's a case involved in the classroom, I follow up and see what kind of service to provide for the family.</p> <p>§ If any kind of incident should happen we let CPS know right away. If we disagree with the case plan then we contact them to talk about it.</p> <p>§ We have a child protection hospital based team with CPS and we discuss the cases and the team will generate a letter when a case is of paramount concern and they are not in agreement with the case plan.</p> <p>§ We serve as a liaison between CPS and foster care placements.</p>	<p>§ When CPS suspects abuse, they come to us to ask general questions and request evaluation of child.*</p> <p>§ Work together to provide safety solutions for child.*</p> <p>§ Call CPS hotline when we suspect abuse or neglect. Interface with CPS when children are hospitalized. Work with CPS to discharge children to safe placements. Work and treat children who are in the care of CPS or are being case managed by CPS.</p> <p>§ Referrals are made for physical abuse, sexual abuse, medical non-compliance, medically at-risk children, failure to thrive infants and toddlers, and statutory rape.</p> <p>§ We also work together to come up with solutions for some of the child protection issues</p>

		<p>with the family and they have a separate time for the child.</p> <p>§ At times, the interests of the child are not their priority.</p>	<p>§ CPS provides us with information on a child's progress in out of home placement and reunification efforts.</p> <p>§ Retrieving case information and assuring the caseworker is established with the case.</p> <p>§ Collaborate with the CPS staff to assist children who integrate into new families.</p> <p>§ We engage in collaborating with CPS to increase their skilled workforce.</p> <p>§ <u>Frustrated With Contact</u></p> <p>§ In interfacing with CPS, there isn't as much teamwork. There are barriers to how we interface with one another and there could be much more team work to help these kids.</p> <p>§ There are a lot of CPS workers who do not have the knowledge base to do the job.</p> <p>§ Basically I attempt to stay in touch with the case manager on a weekly basis there are weeks that I don't see her.</p> <p>§ Generally, I get my referrals primarily from Law Enforcement and CPS. Personally, some workers are good and others have no business being in the field.</p> <p>§ We communicate to CPS regarding our referrals. It is frustrating when there are workers who won't hear what we are concerned about and won't consult us regarding their plan and won't share what they are doing or what the plan is.</p> <p>§ Contacts often lost.</p>	<p>once it is determined that they need protection.</p> <p>§ Mandatory reporters.</p> <p>§ Continued contact during follow-up.</p> <p>§ It is frustrating when CPS who won't hear what we are concerned about and won't consult us regarding their plan and won't share what they are doing or what the plan is, which ultimately affects our plan and we find this to be very difficult and it is not in the child's best interest.</p>
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In Harm's Way

TABLE 6
Opinion of CPS

Judges	Prosecutors	Police	Foster Parents
<p>§ To investigate and evaluate allegations of child abuse and neglect.*</p> <p>§ CPS is overloaded with their caseloads to do an adequate job and seems it will only get worse with current budget problems.*</p> <p>§ CPS lacks the resources to investigate further.</p> <p>§ I would rate the performance of CPS in court as adequate considering the available resources.</p> <p>§ Protection of children that doesn't necessarily mean keeping the family together.</p> <p>§ CPS is too careful about issues of confidentiality.</p> <p>§ There is a problem with government in general; too many chiefs, not enough Indians.</p> <p>§ CPS needs more foster families.</p> <p>§ I think CPS is doing a fine job. If I need records, it promptly responds to a subpoena for a camera inspection. If a case manager, they respond to the subpoena and testify to the information that is available.</p>	<p>§ Their goal should be to protect the children from harmful situations but the emphasis is on family reunification.*</p> <p>§ Their job is unification of the family unit as opposed to the traditional goal of the protection of the children and that is what they have told me so they recognize that we have different goals.</p> <p>§ Therein lies the conflict and not all child protection workers want it that way but they have stated they feel a lot of pressure to reunify and a pending criminal case is not a good enough reason.*</p> <p>§ CPS is too focused on reunification than what is best for the child.*</p> <p>§ Their goal should be to protect children at all costs, not reunify families at all costs.</p> <p>§ You have workers who are making critical, potentially life and death situation decisions, which are grossly overworked, grossly under paid and grossly under educated, it is a recipe for disaster.</p> <p>§ Whatever assessment tool they are using it is not working. They are</p>	<p>§ To protect children but they place too much emphasis on reunification of the family.*</p> <p>§ To protect children from abuse, neglect, provide services and remove if necessary.</p> <p>§ To protect children and to do a parallel investigation with the police department.</p> <p>§ To build the family back together or protect the welfare of the child involved.*</p> <p>§ <u>Goal conflicts</u></p> <p>§ It should be to protect children. It is to reunify the family as I understand it. I see this as a conflict.</p> <p>§ Protection of the family and reunification is a double edge sword. It is a dual mission that is not attainable.</p> <p>§ There primary goal should be safety over the preservation of families.*</p> <p>§ They are on a different timeline than us, and because there is only so much that we are able to get to, the investigation can get spoiled if we aren't able to do the initial investigation.*</p> <p>§ CPS' 21 day timeline is often too short, resulting in not enough time put into a case and a decision to substantiate or not to substantiate abuse to be made with sometimes not enough evidence collected to make a determination so quickly, this results in the police detective substantiating a case well after CPS unsubstantiated and closed the case.*</p> <p>§ CPS is to protect child safety and focus on family reunification whereas ours is to put bad guys away.</p> <p>§ CPS places children with relatives who are just as bad as the offender. They place a child with a dysfunctional family member.*</p> <p>§ Often the child is left in the home with a caretaker or placed with a relative placement and the plan offers no protection for the child. The caretaker or relative can't or won't protect the child from the offender or keep the child away from the offender.*</p> <p>§ I have no problems with the way CPS does there job. They have to put the child with the family. They do not have</p>	<p>§ They need to increase their level of respect for foster parents. Sometimes case managers have a bad attitude.*</p> <p>§ To offer training and support.*</p> <p>§ They are not adequately trained and should establish a higher level of knowledge for case managers. They also need to develop appropriate pay scales to minimize case manager turnover.*</p> <p>§ The biggest role of CPS is to place a child in a safe home and monitor the child once a month.</p> <p>§ <u>Issues:</u></p> <p>§ They need more available counseling and psychiatric services for the child.*</p> <p>§ CPS leaves the responsibility of child stability up to the licensing agency or worker.</p> <p>§ Stability is greatly decreased if case managers keep changing for the child. They have a high turn over rate.</p> <p>§ The case manager's schedule needs to accommodate both the</p>

	evaluating situations they have no clue about.	enough resources.	foster parent and the child.
§	We need to work more closely with CPS, I do have cases that CPS is involved in and I don't know who to contact. Even on a case now I learned information much later than I should have.	<u>Relationship problems</u>	
§	They close cases too quickly and do not monitor the situation long enough.	§ Some of the CPS investigators will go out of their way to do a good job and there are others who want nothing more to do than refer it to police and close their case.*	
		§ Their job is to protect vulnerable children when no one else will or can. It seems that over the past few years they have faded away from the police department and they don't contact us until they get into a situation that they can't control.	
		§ CPS starts an investigation on the criminal case without notifying the police dept. and then they tip off suspect and it messes up the case.	
		§ CPS is a mandated reporter of crime but they are not diligent about reporting.	
		<u>Training/knowledge</u>	
		§ CPS is supposed to protect the welfare of the child yet in too many instances they have incompetent workers and they lack training in child maltreatment *	
		§ CPS workers do not generally have the necessary interview skills to investigate child abuse appropriately.*	
		§ You can only do what you are able to get to.	

In Harm's Way

TABLE 6 Continued...
Opinion of CPS

Community Service Providers	Physicians & Medical Social Workers
<u>CPS Focus</u>	<u>CPS Focus</u>
§ Their mission needs to be to protect children, too much emphasis is placed on reunification of the family.*	§ Their primary goal should be to protect and ensure the safety of the child but they place too much emphasis on reunification.*
§ To protect children, it is in the name of Child Protective Services. That really should be their job; it's to provide a safe home, whether it is by reunifying the family, putting them into foster care, or placement or adoption.	§ Parents rights are considered above the rights of the child.*
§ Unfortunately, the current system is that parent's rights are considered more than the safety of the child and it causes lots of problems.*	§ CPS protects children in the context of the family and herein lies the rub; family preservation has been the concept that all too often ends up with a child being a victim of a fatality.
§ Parent's rights always take precedence over children's rights. We have a kid right now that the family had 14 CPS referrals before the child was ever removed or put into care or anything was being done. No one is looking at the whole picture.	§ The problem is they put the burden of proof on a child to survive by putting them back with the family, it is always their first step.*
§ To investigate allegations of abuse and neglect and to protect children and then their next mandate is to reunify, if at all possible with the family and they have a special mandate specific to that.	§ Often we see is after the case is closed, the family resumes as it did before. Cases need to be kept open longer to assess the motivation of the family and the safety of the child.*
§ CPS only seems to focus on putting out fires. It is very reactive.	§ Cases are not monitored long enough and closed too quickly.*
§ What I think they are and able to do and what people would like to see them do don't often come together.	§ CPS focus should be to be a child advocate.*
§ To open and close the cases as quickly as possible.*	§ They are not able to assess child maltreatment accurately. They are not competent to assess medical maltreatment issues.*
§ I think CPS thinks their primary goal is to keep families intact if at all possible and child protection is secondary.	§ Parents don't complete services, they give excuse after excuse and nothing is done to look at the needs of the child.
§ To keep families together and to ensure that children are safe, I think it is one in the same, don't think we can have one without the other.	§ CPS is getting a little better because they have been burned we have to take this momentum and run with it. Every one should work together and collaborate with each other.
	§ Each case should not be just rubber stamped for services and reunification.*
<u>Training/knowledge</u>	<u>Administration/knowledge</u>
§ When you hire someone who is not knowledgeable in child welfare and expect them to do this kind of work it is a problem that could lead to a bad outcome. We see the results of this all the time.*	§ CPS workers and their lack of knowledge surprise me. They don't understand child abuse and injuries and lack basic medical knowledge.*
§ Some of the CPS workers out in other locations often do not have the training; they come in with a different mindset and different goals. This is not a trial by fire; this is let's find out what's going on and let's help this family.	§ It's not a 24/7 system. The system is disorganized, lack leadership and competency.
§ I think sometimes unfortunately, we get workers who don't have training and support and are overloaded and they come in here and it is automatic, let's hurry and get this done and lets move on and you better tell the mom she better protect that child or I am yanking the child.	§ I think we will cut some of the bureaucracy that currently exists. There is a definite problem with following the protocol.
	§ Parents given too many chances.
<u>Workload/procedures</u>	§ CPS has been very frustrating to work with and I perceive that the workers for the most part are terrific. Their biggest problem isn't the families out there but that they don't have supervisors who support them as they should.
§ However, I see some problems in the CPS system. The <u>turnover rate</u> leads to instability with the child and all parties involved. E.g. one child had four different case managers in 2.5 years. It does not bode well for the child and it continues to raise suspicions in the child. They need stability and trust.	§ We have a problem in Arizona in this second triage level of substantiation, where they have to go through another level and our statistics for substantiation are a fraction of what they are for the rest of the country.
§ I think that they are <u>overwhelmed</u> in their capacity to be able to protect and thus a great number of children slip through the cracks.*	
§ It is amazing to me that as we are a primary provider, we aren't offered the <u>opportunity to</u>	

<p><u>discuss these cases</u> and provide input. This needs to change and we should be a part of the decision making process regarding the kids who are in our care.*</p> <p>§ I think our <u>state's laws and the processes</u> that are put into place <u>hinder</u> them from doing that job. Their incredible caseloads also prevent them from doing a job that they want to do. I know some good supervisors and caseworkers. There are some pretty lousy ones too.</p> <p>§ CPS has so <u>many people to answer to</u>, legislation and so on that they can't do their primary job. When we get a call alleging abuse we tell the caller to call the police and then the police can go out and make a report and maybe file charges instead of just leaving it up to CPS.</p> <p>§ I think that some of the <u>administration</u> at the central office should go back into the field and supervise these caseworkers.</p> <p>§ I think they need to be able to interface with other CPS programs as far as an <u>exchange of information</u> because people do get around. I also think that as much as possible they <u>educate the public</u> in what they can do and what they can't do.</p> <p>§ I think it is their job to investigate when asked to do so, to do a good job of follow up, and to do the very best they can for the children and the families they interact with as far as getting services, and <u>follow up is also critical</u>.</p> <p>§ I would like to see <u>more options for these families</u> where the kids shouldn't be returned. The case needs time for a worker to be able to actively investigate the case and monitor the case.</p>	<p><u>Resources</u></p> <p>§ The system lacks the resources it needs to do the job. The motto seems to be, "act only if the child is in imminent danger of death."</p> <p>§ We don't have enough community involvement in a sense that these children belong to all of us. Their well being should be important to all of us.</p> <p>§ They need a better tracking system to locate the family. You can track down some one who moves by other means, i.e. VIN etc., but when families move and CPS can't locate them, the case is closed and often unsubstantiated. The medical information is lost. There should be a centralized system that tracks down all of the relevant information that is relevant to that child. Moving shouldn't mean the case is unsubstantiated.*</p>
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In Harm's Way

TABLE 7
Case Plan

CPS Workers
<p><u>How do you evaluate your case plan to prevent the recurrence of abuse?</u></p> <p>§ We evaluate based on the primary goal of reunification, since that is goal of family centered practice. We assess and reassess every 6 months.*</p> <p>§ We have services in place; the caseworker draws up the case plan and then they go over the case plan with the family. We conduct a safety assessment and determine what the needs are for that family to reduce the stress factors in the home. *</p> <p>§ We have a "best practice" model. We are looking at getting accredited.</p> <p>§ We have a reassessment tool that workers can access from the computer. We use it as part of the decision making process and also take into consideration the reports from the providers who are a part of our treatment team. We do our best job to assess and provide services and to assess the risks, but there is no guarantee it might not happen again. We do our best.</p> <p>§ You do a whole assessment of what's been happening, you look at the family history and then you look at what your own experience is with certain cases and individuals. You look at what is relevant to use on the case.</p> <p>§ We put together a plan and try to make it specific for each family.</p> <p>§ We review the plan and try to develop other options as needed, but our primary goal is to protect the children but remember, we are a family centered practice so reunifying is always our primary goal.</p> <p><u>Do you work on concurrent planning for reunification and placement when working on a case?</u></p> <p>§ Yes, we work with families on the case plan and we monitor them to ensure they are following the plan and following through with services whatever they are. We work hard at trying to empower the families to comply with the plan and we help the family to be able to help themselves so that they take responsibility.</p> <p>§ Yes, if I don't start seeing results or stability in parents, then it gives me the idea that I better look for plan two, which is always the concurrent plan. We have concurrent case plans. If the first one doesn't work out then we will go to the concurrent plan.</p> <p>§ Yes, it's mandatory, reunification, guardianship, and relative placement. Then we look at severance with adoption.</p> <p>§ We always do concurrent case planning if the case plan of reunification fails.</p> <p>§ Concurrent planning is not necessarily used when we are planning to reunify from long-term foster care.</p> <p>§ Severance and adoption might be planned if reunification is not possible.</p> <p><u>Do you conduct a background check and provide a thorough assessment on family members identified as temporary caregivers?</u></p> <p>§ Yes we are required too. We do a home study, and request a criminal background check.*</p> <p>§ In many cases we do a criminal background check.*</p> <p>§ We have a process to get a background check, however, DES policy permits us to do a guardianship without a background check in place.*</p> <p>§ With all family members in the household over the age of 18, we usually request a background check.</p> <p>§ Yes we do. CPS requests a background check. We just had a battle with JPO because they don't have to have background checks.</p> <p>§ We may not get background check back for 2-3 months.</p>

In Harm's Way

TABLE 8
Reasonable Efforts

CPS Workers

What is the definition of reasonable efforts?

- § We do everything to provide every service possible to reunify the family. Case management, transportation, parents' aides and etc. The court determines, whether we have made reasonable efforts or not. *
- § I don't know -- you have explored every single opinion before taking a kid.*
- § Identifying a concern and being willing to follow up on a case.
- § The standards or goals set up by the CPS worker in the case plan and if they take it seriously then the family will take it seriously too.
- § We focus on, "did we make efforts to prevent the removal of the child from the home or progress towards reunifying the child back with his or her family?"
- § It is the efforts set forth in identifying the case plan to include the goals and objectives that are defined.
- § The court determines "reasonable efforts".
- § At intake, it means doing everything possible to ensure the child's safety.
- § In ongoing, it means active steps toward reunification and/or a permanency plan.
- § The caseworker and parents have tasks set out for them listed in the case plan (reviewed every 6 months).
- § Reasonable efforts mean we have done everything we can and provided necessary services.
- § Case plans state the expectations and how the agency is collaborating with the family to remedy the risk factors.

Do the caseworker and parent understand "reasonable efforts"?

- § I think reasonable efforts are rarely spelled out clearly for the family either by CPS or the courts.*
- § Yes.*
- § I would question whether or not they would be understood by the parent. In some cases and I am sure you would find caseworkers that don't really grasp the concept of needing to make reasonable efforts. In general most workers know what they need to do to meet reasonable efforts.
- § Most cases managers understand them. Often times they are not understood by the families we are dealing with.
- § Not really.

Are "reasonable efforts" defined in the case plan?

- § Yes.*
- § Yes they are but not sure if they adhere to it.
- § Yes, it has all the tasks that need to happen written out in order for the child to be able to go home and we have a time frame to adhere to.

Under what conditions a child should be reunited with a caregiver before a police criminal investigation is completed?

- § I rely on the commitment of the police officer. If the officer thinks children should be removed then I will present it.
- § When there are allegations of sex abuse; if offender is removed and mom is willing to protect the child.
- § If the child is placed with a responsible parent.
- § This is probably pretty case specific and depending on the circumstances. If there are pending criminal charges for child abuse, neglect and if the offending parent doesn't have access to the child and the caregiver is willing to protect the child from the offending parent.
- § In the on going unit, we look at how the case is progressing and many factors are taken into consideration before reunification. It depends on the criminal act that was committed. We would have to look at how the parents are participating in services, how the case is moving along, how visitation is going, and what the opinion is of the treatment team.
- § When services are in place and the parents are willing to protect the child. When they have completed services and the risk factors are reduced.
- § I would say in that situation, I don't think we would ever reunite the kids with their parents if there were some kind of criminal investigation going on. We would probably wait until that was done first.
- § It depends on the allegations and the severity of the injuries. If a child is in imminent harm, they are not returned.
- § If the child is at risk and we are able to determine that the child will be safe. It is based on the history of the parent's ability to protect the child.
- § When the risk for abuse no longer exists.
- § When the perpetrator is removed.
- § When the parent becomes motivated and truly begins to care for the child.
- § I would reunite with a caregiver when I see that conditions have improved.

In Harm's Way**TABLE 9****Examples of Dissatisfaction with CPS or Where a Case Resulted in a Bad Outcome***Police, Physicians & Medical Social Workers*Prior reports

- § A neglect case, where a 10 year old called the PD and the mom was smoking PCP and she was under the influence with her kids at home, and CPS had 5 prior referrals. We found past reports of the mom using drugs and each report was referred to family builders, and again the outcome was always the same.
- § Another case goes back thirty years and CPS was involved in it numerous times and they placed those girls back in the house with him and he continued to molest them. We just went to trial last week and he was found to be guilty and now is in prison. This case had multiple referrals to CPS for abuse.
- § A 10 year old called the police because his mom was smoking PCP with the kids in the home. Her 3 year old was found standing in the street alone. They had 5 prior reports to CPS, each one referred to Family Builders.
- § Most of these cases that we see are really bad, when you look back there are so many priors on these families; so many of these cases are unsubstantiated, unsubstantiated, unsubstantiated, and you have to wonder what is going on out there.

Victim recants/won't cooperate

- § These little girls were saying that their step dad was molesting them. We arrested him and the girls recanted because he was the breadwinner of the family. Mom put a lot of pressure on them.
- § The offender's boss called the mother and told her that she better get the offender out of jail. The children recanted the abuse.
- § A little boy, had breaks in his foot, his testicles were bruised, his penis was bruised, and he wouldn't disclose who did it. He had multiple caretakers who had denied abusing him. One caretaker had medical issues and was unable to take a polygraph examination. Mom took polygraph and failed. CPS placed him with his grandma in NV and closed the case. Mom left and went to Nevada. I don't see how that was real closure.
- § I have a case where two young brothers reported that mom's boyfriend was molesting them and we put the case together, arrested him and he denied it. When it got to the county attorneys office, the mother had been visiting the suspect. All of a sudden she calls me and says my two boys want to talk to you, they made the whole thing up. So, I put the boys alone in a room and recorded it, and the one boy says to the other one, "I told the truth, I said what the boyfriend did to us" and the other boy says, "don't tell them, you know what mom told us." I had a problem with mom not protecting the boys and the county attorney's office made the decision not to prosecute because the boys recanted, even after I showed them the video of the boys conversation, they dumped the case.
- § On many occasions, CPS has interviewed a child in front of the suspected perpetrator and then closed and unsubstantiated the case and didn't tell us about it.

Plea agreements/sentence

- § The plea agreements they offer are bogus. When a person is facing more than one count, even up to 17 counts and they dismissed them, it is just wrong. When they plea down to a lesser crime, there isn't any rehabilitation for these people and they are going to re-offend.
- § A plea where the suspect gets a lengthy prison term can be helpful to the child to avoid having to go through a hearing. The other situation that is a real problem is a suspect being offered a minimum sentence that is way too low for the crime committed.
- § Judges let defense attorneys get away with too much. A lot of people say if they knew going into it what they knew after it was over, they would have never reported it.
- § Not specific cases, but there are cases where the county attorney had a confession, the victim disclosed and the suspect was offered a plea. There should be less plea agreements for these kinds of crimes and better prosecution of these cases.

Lack of evidence

- § The suspect fled and the investigation was delayed for 4 years, the case was not filed because of a lack of corroboration.
- § Other cases where CPS went out first and interviewed the suspect; they tip the suspect off before the police can interview the suspect and they know they are not qualified to interview, it damages the investigation.
- § In cases of child abuse where there is a lack of evidence, the case can't be treated as a criminal investigation and the child is left in the same environment. In many of these cases the parent is the perpetrator. If the case can't be substantiated, the parent can tell the worker to pound sand.
- § Sometimes, we don't get enough information or have enough evidence. In cases like that, when we know something has happened but don't have evidence to support the allegation of abuse, it's hard.
- § I have seen many CPS workers who lack basic interviewing skills and this can cause a lot of problems in managing these cases.

Prosecution

- § A mom was high on drugs and was in an auto accident. The child died and it was her fault. Its four years later and we are still waiting to go to trial. Sometimes, I see a lack of effort put into prosecuting these cases.
- § A child was chronically neglected and died. We can't get the case prosecuted.
- § There was a case involving a 17 years old mentally ill teen and was being molested by an unregistered 60 year old pedophile. He wasn't a good victim and it was never prosecuted.
- § A child abuse case, where a guy gave his 16 year old daughter a "good old fashioned ass whooping," and in this beating, he broke her thumb and left bruises all over her body and it got turned down. This is a good example of, where the prosecuting attorneys that we deal with, (who advise us on our cases), said the case should have been filed and the charging attorney decided to turn it down.

In Harm's Way

TABLE 9 Continued...

Examples of Dissatisfaction with CPS or Where a Case Resulted in a Bad Outcome

Police, Physicians & Medical Social Workers

Family should not be reunified

- § There is a case right now where the girl was initially removed; the dad was sniffing her crotch. The girl was put back in the home with her mom and then her dad was released with a monitoring device. Prosecution filed the case in court. Mom wanted to send girl to Philippines. The prosecutor asked for a GAL to be assigned. The Judge refused to assign a GAL, which put the girl in a bad situation. CPS should have kept child with Aunt.
- § There was a burn case and the children were taken out of the home and a legislator got involved and contacted CPS and it filtered down and children had to go back home. The legislator was a friend to the family. She pressured CPS, the CA's office and contacted our Sergeants. She announced that she was on a committee who had CPS oversight and was going to see to it, that the law gets changed.
- § Mom was a methamphetamine user; a child was removed but then returned even though mom did not comply with the case plan or treatment.
- § A horrible drug case where narcotics saw a dad punch his kid in the chest and the kid flew across the room. The child resided in a filthy home. There were needles and drugs in the home. Both mom and dad were put in jail. CPS ended up placing the child in North Dakota. CPS keeps calling wanting to know when the parents are getting out of jail in order to reunify the 8 yr old boy. Both mom and dad are addicts. CPS put the child with his grandmother because the parents agreed to family group decision-making. CPS' agenda on this case is to constantly call to find out when they can reunify.
- § A specific case in the Behavioral Health Unit where the staff stated their position on the case that CPS wanted to reunite the child with his mother. The social worker pleaded with CPS not to return the child to his mother and his pleadings went ignored. They placed the child with his mother anyway. A couple days after the child was reunited with his mother, she killed him.
- § In many cases, newborns exposed to in-utero drug abuse are sent home with the parent with CPS stating "It's a lifestyle choice". These children would go home with these families and we would have to prove they were neglected and prove they were abused before CPS would intervene and take them out of the homes.
- § A child was sent back to Florida to a mom who abused the child. The plan was return to parent even despite hospital staff objecting to the local CPS and to Florida CPS. We objected strenuously to that plan and presented our treatment plan and our recommendations for this child. It wasn't a good situation.

Policy problems

- § Another issue is police agencies can't authorize medical exams on cases of physical abuse. It has to be approved by CPS. If we have a physical abuse case that doesn't fall under CPS jurisdiction, we can't get medical authorization for the person to be seen by a forensic physician and we can't get an examination done on that child.
- § The only problem I have is that CPS has a time line, we do not. They can warn the perpetrator of the allegation before we have a chance to finish the investigation.

- § When protocol is not followed. When there is an in home molest and the call goes out to patrol and the sergeant is limited, and I don't get the case until the next day. I would go out to the house and the kid would be somewhere else, the perpetrator is already aware of the disclosure and then I will am not as successful in working the case, due to the time delay.
- CPS does not act
- § There are a lot of times where you have a child molester molesting a neighbor child and we contact CPS to inform them of the situation and the molester has his own children living with him and CPS won't get involved because there is no report known to them on his child, even though he is a known child molester and is most likely molesting his own kids. CPS won't get involved or take a referral for that.
- § There was a case where a special education child was in the home and wasn't in school for three and a half months and no one made a home visit.
- § We have a case where CPS should have removed a child a year ago but failed to. Mother was in drug rehab for a short time and she stopped going. CPS kept trying to reunify the mother and child and it caused a huge delay in the system. During that process, the child did not receive the kind of care he needed.
- § There was a case where the CPS worker was not competent to make a judgment call. This worker "eyeballed" the baby and concluded the baby was fine. The baby was not fine and needed immediate medical assistance. This baby was severely neglected. Case worker training is poor and the skill level of the worker must be improved. A medical report needs a medical assessment; not a visual inspection by a CPS worker.
- § Another case involved a 15 year old girl who disclosed that she woke up and found her step father in her bed with her pants pulled down and he was touching her vagina. She asked, "What are you doing?" He got up and left her room. She went to school and disclosed the incident and stated that this had happened to her more than once. CPS was called and the worker went out to the house after she got the referral from the school counselor. The CPS worker sat down with the victim, the mother and the suspect in the living room and interviewed all three of them at the same time. They ended up closing their case and sent them a letter stating that the allegations were unfounded. This happened in May 2002. I call the mother the other day and she was absolutely dumbfounded and stated, "I don't know what to believe." As I talked to her, she read the letter from CPS stating the case was unfounded. I don't understand how they can close a case and unsubstantiated it when they don't have the facts, other than a conversation with all three family members at the same time. They just basically sat and talked to the people. So, I got a hold of the suspect on the phone and he corroborated everything the girl had said that happened to her. With the suspect is still in the home, I got the girl on the phone and she reconfirmed that the abuse happened. Needless to say, I got the suspect back on the phone and he admitted to committing that same act more than once.
- § I have a case where a child was mentally challenged and severely neglected. This child attended North High School. She would come to school with bruises on her body. CPS was called in and had an open case on her. The school had to help to keep her clean because she often came to school very dirty. The county attorney turned the case down because being dirty doesn't necessarily mean the child had health problems. There were notes of physical abuse (bruising) the child had no glasses. On Friday, the school nurse put a maxi pad on her and on Monday, she returned to school wearing the same pad. CPS will not remove this child from the home.
- § Recently, we had a case where CPS should have removed the child a year ago, but failed to. The mother was in a drug rehab for a short time and stopped going. CPS kept trying to reunify the mother with the kid. It caused a huge delay in the system and the child did not receive the kind of care he needed. Medical personnel should automatically be able to go to hearings and not have to wait for an invitation from CPS.
- § There was a case in the behavioral health unit where the staff stated their position on a case that CPS wanted to reunite the child with his mother. The social worker pleaded with CPS not to return the child to his mother and his pleadings went ignored and they placed the child with the parent anyway and he was killed a couple days later after returning home, by his mother.
- § The bureaucracy creates so many forms and paper work; paired with a lack of knowledge, often the worker is not competent to make a decision based on the child's situation. For instance, in the case of baby S, the worker was not competent to make a judgment call. This worker eye balled baby S and concluded the baby was fine. The baby was not fine and needed immediate medical assistance. This baby was severely neglected. We almost had a dead child. A medical report must be assessed by an appropriate medical professional, either a nurse or a physician. A child off of the growth chart is not okay. A worker should not be given the discretion to make medical judgment calls. A trained medical professional should be the one assessing these cases. Siblings should also be looked at when assessing a child who has been abused by a caregiver. Research shows that when one child is abused in the home, the siblings are also victims of abuse. Siblings should also undergo a medical evaluation.

In Harm's Way

TABLE 10
Child Abuse and Neglect Risk Factors

CPS Workers	Community Service Providers	Physicians & Medical Social Workers
§ Substance abuse, drugs/meth/alcohol * § Abusive relationships/codependency * § Poverty/homelessness * § History of abuse or neglect * § Mental illness * § Parents who refuse to deal with their issues * § Repeat substance abuse pregnancies * § Parent's' rights supercede children's rights * § Environmental § Not enough rehab resources § Mothers self-medicating, needing mental health services § Lack of coping skills, § Lack of parenting skills § Inadequate, unsafe, and unmonitored group and foster homes that may subject kids to further abuse. § Lack of support	§ Substance abuse * § Financial instability/poverty * § Lack of education/job skills * § They have no support systems, this is a transient state/isolation * § Stress/fast pace society/society/environment * § Domestic Violence * § History of abuse * § Teen parents/maturity * § Parents being ill equipped to parent children * § Mental illness * § The system is lacking in adequate services to fill the need/lack of community support * § Lack of healthcare benefits * § Ignorance of child development * § Not enough resources for drug and alcohol rehab * § Lack of clear social norms on what good parenting is/role models * § Single parents * § Low impulse control * § Disproportionately high minority population. * § A lot of families who have issues with seeking help because they see it as a failure and there are also families that just always depend on the system for being taken care of. * § Unrealistic expectations of children § There are a lack of prevention programs	§ Substance abuse * § Domestic Violence * § Lack of community support and services/isolation * § Poverty/unemployment * § Mental Illness * § Poor education * § Single parents * § Lack of CPS intervention regarding children's education and attendance in school § CPS quick to close cases § High turnover rate in CPS, with workers having little or no feedback from supervisors. § Medical workers are prohibited from attending hearings, therefore at times; a medical report is without medical assessment. § Stepparents § Lack of parenting skills, history of child abuse of parent (multi-generational) abuse, access to care and resources, continuity of medical care. § More efforts need to be placed on prevention.

§	Strangers living in home
§	Multiple boyfriends in and out of home
§	Patriarchy. Whenever there is a system where someone has power over someone else, there will be abuse, whether it is men over women, parents over children, whenever there is an imbalance of power there will be abuse.
§	It comes to family values, children being left alone.
§	Parents working two jobs
§	Hopelessness, not knowing resources available.
§	Children with special needs, aggressive personalities, lack of early age bonding, unprepared caregivers.
§	Lack of coping skills, how many children people have and whether they have a supportive environment.

In Harm's Way

TABLE 11
Risk Factors That Lead To Repeat Maltreatment

CPS Workers	Community Service Providers	Physicians & Medical Social Workers
<p>§ When an unsubstantiated report should be substantiated. If anyone in field is not substantiating a case that should be substantiated.</p> <p>§ When parents put the child at risk by not following through on the case plan and when they don't follow through on what is suggested to them on the first referral or when they don't take our advice.</p> <p><u><i>Risk factors and child stays in home</i></u></p> <p>§ Our hands are tied by law, if we have no proof, then they have to understand there is not a lot we can do. Sometimes we will receive a report regarding allegations of sexual abuse but there is not enough evidence to remove the child. *</p> <p>§ Parents who refuse to comply with services or do not follow through with substance abuse treatment are allowed to parent without any monitoring. *</p> <p>§ Financial resources go to support the parent's drug habit instead of caring for their children. The child's needs are secondary to their drug dependence. *</p> <p>§ If a child keeps running back to the home; sometimes the judge will allow the child to stay at home even when there are still risks.</p> <p>§ Shaken babies are sometimes left in the home even after the baby has been medically checked out.</p> <p>§ We are going to start to do in home petitions where we allow the child to stay in the home as long as the caregiver is complying with services.</p> <p>§ The child may be at very high risk and we will put in services in depending on the circumstances in order to preserve the family.</p> <p>§ In cases of sex abuse, if the mom is not willing to protect or believe the child then it would place a great risk on the child who is in the home. When a home has no running water or when a parent is not willing to care for a child's medical needs.</p>	<p>§ Continued substance abuse, domestic violence. *</p> <p>§ Parents who lack education and support to correct the problem. *</p> <p>§ A child welfare system with no accountability or checks and balances when decisions are made that are not in a child's best interest. *</p> <p>§ Mental health problems. *</p> <p>§ The failure of the system to deal with it the first time. If you don't deal with it the first time, it is going to be repeated. *</p> <p>§ The child was not removed from the dangerous situation.*</p> <p>§ Inefficient help provided to the abuser.</p> <p>§ The parent being a past victim of abuse.</p> <p>§ Multiple times a child is removed and returned to the offending parent. The child is in and out of the system. With each incident there is more damage to the child.</p> <p>§ Bouncing children in and out of multiple foster homes; causing emotional damage.</p> <p>§ Lack of treatment.</p> <p>§ Parents cannot change their lifestyle choices and maintain a troubled pattern.</p> <p>§ Kids are getting sent home too soon when services haven't been provided to the family.</p> <p>§ Often the foster parents are not supported and they don't have what they need to adequately and effectively provide for the child. They don't receive the support they need. We end up losing good foster parents.</p> <p>§ The court systems failure to protect children.</p> <p>§ There is a lack of successful intervention programs. Many of the programs don't work.</p> <p>§ Some of the parents with criminal histories will be put in halfway houses. I am not sure how effective the programs are once they are in the system.</p> <p>§ I believe there has got to be something more out there to help these parents and to have something that works. CPS states that drug use is a lifestyle choice but it is more than a life style choice, it is generational.</p> <p>§ The programs need an element of how to integrate child safety in the home. There are anger management classes available but those programs are all disjointed. They are not taking the information they are getting from these classes and applying it themselves.</p> <p>§ The only programs that are successful are the one's that the user seeks out.</p> <p>§ Primarily due to a lot of the risk factors are not addressed. This leads to a lack of intervention.</p> <p>§ Not seeking the support that is available, repeating patterns in the family for generations, repeating the cycle of the system.</p> <p>§ People have no impulse control. They don't have coaching on how to develop appropriate skills. They have difficult children/handicapped, and so on.</p> <p>§ Medical exams on children referred to CPS should be required. CPS needs to improve the goals of the case plan and decisions made in the case by including the concerns outlined by the professionals who are also involved in these cases.</p>	<p>§ Continued substance abuse *</p> <p>§ Domestic violence, financial stress and mental illness.</p> <p>§ Cases not monitored and/or assessed as they should be.</p> <p>§ Lack of medical examination requirements for children referred to CPS.</p> <p>§ Lack of community support and resources.</p> <p>§ We have a large percentage of unsubstantiated cases.</p> <p>§ Fixing only the symptom, not the real problem</p> <p>§ Most of these cases that we see are really bad, when you look back there are so many priors on these families and so many of these cases are unsubstantiated. You have to wonder what is going on out there.</p> <p>§ CPS needs to look at old referrals to and not just treat the referral as a new one when an old one was unsubstantiated. They need to set a threshold and when another referral comes in, this is a family to know and there should be triggers. Substance abuse should be an automatic trigger.</p>

§ CPS makes too many judgment calls and without the training, the judgment calls are troubling to other professionals. They do not have the medical knowledge to make judgment calls on neglect cases or cases requiring medical assessments.

In Harm's Way

TABLE 12
Relationship of Adult Substance Abuse to Child Abuse

Judges	Prosecutors	Police	CPS Workers
<p>§ We frequently see co-occurrence of substance abuse, child abuse and neglect.</p> <p>§ It is an indicator of mental health, stress, and financial hardship.</p> <p>§ There is usually direct correlation.</p>	<p>§ Approximately 80 percent claim substance abuse as a concurrent problem. *</p> <p>§ Most child abuse cases include substance abuse.</p> <p>§ Drug use, itself causes damage to children.</p> <p>§ Drug abuse initiates abusive behavior.</p> <p>§ Which comes first in these cases? Is it drug abuse or child abuse?</p>	<p>§ It is a real problem. It is in the majority of cases seen. *</p> <p>§ It goes hand in hand. The parent's cannot relate to problems in their household. They are not concerned with the children but with were next fix will come from. *</p> <p>§ You also see the cycle of abuse repeating itself. *</p> <p>§ Male adults who use let their inhibitions down and sex abuse occurs more often as well as physical abuse. *</p> <p>§ With women who use, you often see physical abuse and more often neglect, because the kids are getting in their way of their drug use. They are using all of their money on drugs and spending most of their time using. *</p> <p>§ There are also a lot of drug exposed babies. In homes children are exposed to drugs when there is drug paraphernalia lying around including needles. *</p> <p>§ It is a significant issue. Alcohol decreases inhibitions in adults and it increases their inability to stop abuse cycle.</p> <p>§ As far as charging child abuse, it is vague for the county attorney in what they want law enforcement to do. You have to show that the adult intended to hurt the child in order for the person to be charged.</p> <p>§ There is an increased risk of physical abuse and molestations from strangers in the home using the drugs.</p> <p>§ Addiction puts children at risk for physical and sexual abuse as well as neglect.</p> <p>§ Substance abuse leads to poor judgment</p> <p>§ An increase in violent behavior is associated with drug use.</p>	<p>§ In our system, a majority of cases have drug use as a factor *</p> <p>§ It affects parenting skills *</p> <p>§ It is their way of self medicating and not being able to meet the child's emotional needs, if you can't meet your own. *</p> <p>§ Parents are in denial that they have a substance abuse problem. *</p> <p>§ Substance abusers often have mental health issues. *</p> <p>§ It creates anger.</p> <p>§ Drug abuse can affect employment and housing.</p> <p>§ Treatment should be mandated in certain situations, now it is only volitional.</p> <p>§ When a parent coming down off of meth, it can be the most dangerous time for that child.</p> <p>§ A parents' frustration level becomes higher and in general, a parent who is a user may have underlying issues, which are not being dealt with.</p> <p>§ But, it is up to the parents to seek help.</p>

In Harm's Way

TABLE 12 Continued...
Relationship of Adult Substance Abuse to Child Abuse

Foster Parents	Community Service Providers	Physicians & Medical Social Workers	Guardians Ad Litem
<p>§ A Significant correlation.</p> <p>§ Most cases involve drug abuse.</p> <p>§ It keeps children from returning home.</p> <p>§ It increases the chance of abuse.</p> <p>§ Good parents change and children suffer both mentally and physically.</p> <p>§ It causes a parent</p>	<p>§ Substance abuse is the major contributing cause of child abuse. *</p> <p>§ The focus is on substance abuse, not the children *</p> <p>§ It alters the mindset of a parent, who then lacks judgment and patience. *</p> <p>§ It is huge and about 90% of kids have witnessed or have been a part of drug use in the home. *</p> <p>§ Children are put in risky situations because of substance abuse. *</p> <p>§ About 75% of child abuse is related to substance abuse.</p> <p>§ I estimate that 60% of kids in the juvenile justice system have parents with substance</p>	<p>§ The lifestyle of the people who use drugs, either they don't get medical care or unorganized to seek medical care. They don't get proper nutrition because the parents are into drugs. *</p> <p>§ There is an increased risk for sexual abuse because the children are exposed to strangers who they often are doing drugs with or they leave them with strangers while they leave the home to use. *</p> <p>§ In utero drug abuse is an issue. These babies shouldn't have to go home and prove they are safe in the home. *</p> <p>§ Children exposed to drugs, therefore creating future pattern. *</p>	<p>§ Substance abuse is almost always a component and it results in the parent putting their own needs before their children's needs.</p> <p>§ It is a primary issue. I think that 99 out of 100 cases of abuse revolve around substance abuse.</p> <p>§ It's critical; they can't provide for the child emotionally, kids will turn to drugs to cope.</p> <p>§ It leads to personality changes. Parents become more aggressive and it leads to a life style of crime.</p> <p>§ Parents become irresponsible</p>

<p>to neglect his or her children.</p> <p>§ It destroys the family unit.</p> <p>§ The parent thinks only of the drug and/or how to get them instead of the needs of their children.</p>	<p>abuse problems.</p> <p>§ It causes instability in the home.</p> <p>§ There are not enough effective rehab services available.</p> <p>§ Parents spend more money on drugs than they do on necessities.</p> <p>§ Not only do these kids watch it in the home, they have been exposed to it at an early age. It becomes part of their culture.</p> <p>§ We are only putting a band aid over it and getting a parent to treatment is only a part of the problem. You also have to look at what caused them to cope like that. They are modeling poor coping skills for the child who may very well learn the same coping skills and repeat the substance abuse behavior.</p> <p>§ It depends on the individual. In cases of meth, it could make someone violent, in cases of marijuana; it could cause complacency and a lack of attention. Alcohol, as a legal drug is also a problem.</p> <p>§ It is high risk factor for maltreatment.</p> <p>§ Substance abuse does not cause the abuse, but the addiction becomes the whole focus of the parents; more important than the child's needs.</p> <p>§ I think some situations are recognizable. I'm also thinking it's the unborn child who has suffered the most.</p> <p>§ Significantly, and it is a real problem. It is an ongoing problem, these kids are in homes exposed to drugs, having access to drugs and often they are being abused or neglected by the parent who is abusing drugs or by strangers using drugs with that parent. A child, who continues to be left in the care of multiple strangers, is at risk.</p> <p>§ It is more than just a life style as CPS explains it. Parents who are using drugs cannot effectively parent their children. Court ordered treatment doesn't always happen and the resources for court ordered treatment are slim.</p> <p>§ The kid is in a family system where the caregiver has never received treatment because it wasn't offered or pursued. Worst yet, services were not even available to them due to long waiting lists. Or, there was no pressure to go into treatment because it was considered a life style choice.</p>	<p>§ Parent lacks control of their life and the lives of their children.</p> <p>§ Prenatal care poor due to mother more interested in drug</p> <p>§ Probably an 80% correlation.</p> <p>§ CPS has considered drug use, "A life style choice", "you can't take these kids away from families that are using drugs." I have been frustrated with this. The children would go home with these families and we would have to prove they were neglected and prove they were abused before CPS would intervene and take them out of the homes.</p> <p>§ Kids in these types of homes are at high risk for abuse; both physical and sexual, and for neglect.</p>	<p>under the influence.</p> <p>§ Parents are more likely to abuse and neglect children while under the influence of drugs. Additional risks occur when parents leave drugs out and they become accessible to the children.</p> <p>§ Of course, when you are on drugs you can't parent.</p> <p>§ CPS considers drugs & alcohol abuse a life style choice. When parents use, the children are in danger, domestic violence is ramped and there are not enough immediate shelters to provide safety from abusive situations.</p> <p>§ Yes and CPS takes the position that drugs are a life style choice.</p> <p>§ We need court orders in place to monitor sobriety. These orders are necessary.</p>
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In Harm's Way

TABLE 13
Current Caseloads

Judges	Police	CPS Workers	Guardians Ad Litem
<p>§ It is difficult to detect but child abuse and neglect remain as pervasive social problems.</p> <p>§ Cases are certainly more time consuming in family court since an additional investigation and evaluation is required.</p> <p>§ Each Family Court Judge has approximately 1000 divorce cases. I am not sure of the statistics of abuse within these cases.</p>	<p><u>Average caseload:</u></p> <p>§ We average 20 to 30 cases per month. *</p> <p>§ If it reaches 30, I definitely feel behind in my case responsibilities.</p> <p>§ I know some detectives who are getting hammered; they are way out there with a caseload of 60 to 80.</p> <p>§ At the first of the year out of 1658 cases, there were 20 crimes against children cases.</p> <p>§ I am carrying about 52 cases.</p> <p>§ I average about 3 to 5 cases of child abuse a month.</p> <p>§ I am carrying approximately 100 cases.</p> <p>§ I don't know.</p> <p>§ A typical child abuse case load? I don't know and I don't want to know, it will just depress me.</p> <p>§ About 150-160 cases open, per detective. We get assigned 60 or 70 cases. Approximately, 90% are child abuse.</p> <p>§ I have anywhere from 20 to 50 cases.</p> <p>§ I average 20 to 40 cases.</p>	<p><u>Average caseload:</u></p> <p>§ Our average caseload is about 12-20 children per worker. *</p> <p>§ Our current caseload is very high right now. *</p> <p>§ We get a lot of repeaters.</p> <p>§ It was not unusual for an investigative worker to receive 4 to 5 reports per week, to work on and sometimes it was even more, rarely was it less.</p> <p>§ For an ongoing caseworker, we now count cases by the children and not the families. In the past you could have had 17 families and forty-five children. Now you are looking at, for an experienced worker, to have about 22 to 24 children.</p> <p>§ The new worker plan for ongoing workers after they complete their three month training is: from week one to week four, they can have 6 to 7 children, from week four through month 3, they build up to 8 to 12 children, from month 2 to month 4, they have up to 13 to 17 children and from month 3 to month 6, they have 18 to 20 children and then the last bit over laps, from month 4 thru month 6, they can have 20 plus children.</p> <p>§ Approximately, 3 to 5 cases a week. At the hotline there are no caseloads, they take reports as the calls come in. Investigations get about 3 to 5 per week and in ongoing, they can carry as</p>	<p>§ I have 100 – 120 to 180 cases.</p> <p>§ I have 100 cases.</p> <p>§ I have from 60 – 90 cases.</p> <p>§ I have 30 cases.</p> <p>§ I have 25 cases each year.</p>

<p>§ Can be more time-consuming although the same procedures apply.</p> <p>§ Most cases involve spousal abuse, not child abuse.</p> <p>§ There are more emotional abuse cases.</p>	<p>§ Out of 120 cases per month, 60% are child abuse. I get 8 to 10 per week.</p> <p>§ We did about 6000 cases last year and it averages to be 225 cases per detective per year. That doesn't count originals or cases that you assist on. The caseload can be overwhelming.</p> <p>§ When you add in the pended cases, it averages to about 90 open cases.</p> <p>§ In neighborhood of 225 cases a year.</p> <p>§ At this time I have about 45 open cases.</p> <p>§ I get about 30 cases each month and try to keep cases to approx. 20 something. We have asked for help over and over again and could use the manpower to be able to work these cases more effectively and efficiently.</p> <p>§ I have about 38 open cases.</p> <p>§ I try to keep it fewer than 30 cases.</p> <p>§ The typical child abuse caseload is overwhelming. Detectives can carry 70 to 100 cases.</p> <p>§ Right now I am carrying four cases of maltreatment.</p> <p>§ Spanish speaking detectives are buried.</p> <p>§ Child abuse cases are more time consuming and certainly different than other types of crime.</p> <p><u>Cases closed on average:</u></p> <p>§ I close, on average, 3-5 cases per month *</p> <p>§ Each month, I close 1 to 2 cases. *</p> <p>§ My average is about 4 to 5 cases.</p> <p>§ Approximately 5 to 7 cases.</p> <p>§ About 2 to 3 cases per month on average.</p> <p>§ About 8 cases per month are closed depending on the case load.</p> <p>§ I close about 5 to 10 cases each month if I am lucky.</p> <p>§ About 15-20 cases are new per month. I have 100 open cases.</p>	<p>many as 35 kids.</p> <p>§ They count it by children in the current caseload. We have 19 ongoing cases, I have 35 to 40 cases in my caseload. There are only three ongoing workers. They don't cover the area; there are just not enough caseworkers.</p> <p>§ We get four new referrals once a week; it's different in investigations. In investigations, it is like sixteen new referrals a month.</p> <p>§ It is arbitrary from worker to worker; judge to judge, and there is not a lot of clarity and consistency for when children should be reunited with parents.</p> <p>§ Our job is to return the children to their parents.</p> <p>§ I have about 17-21 cases.</p> <p>§ I carry up to 23 cases.</p> <p>§ I have up to 30 cases.</p> <p><u>% of cases where the worker is able to make a home visit on time</u></p> <p>§ More so now than in the past, we have a pretty good compliance rate as far as that goes.</p> <p>§ It is about 98%. By policy, they are to see every child in the home every month.</p> <p>§ It is a hundred percent.</p> <p>§ Pretty much all the time, which means not working 8-9 hour days but some weekends.</p> <p>§ It is probably 95%.</p> <p>§ Our most recent caseworker survey states we have never missed a visit. When there are extreme circumstances, co-workers have helped out by making the home visits on time.</p> <p><u>On average how many times does a case worker change?</u></p> <p>§ It is 2 to 3 times or more, the family may move or a worker left the agency. *</p> <p>§ They change around six months to a year.</p> <p>§ I know of some kids who have had 6, 7, and 8, case managers. The turn over and burn out rate is tremendous. It is not good for the kids.</p> <p>§ At least three changes are made during an open case; investigative, ongoing, adoptions.</p> <p>§ We have a high turnover rate due to low pay and high caseloads.</p> <p>§ Because of the turnover, many cases have had as many as four or more workers.</p> <p>§ The turnover rate is 22-25% and this is due to the demands of the job and the low pay.</p>	
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In Harm's Way

TABLE 14
Child Abuse Protocol

Police	CPS Workers	Guardians Ad Litem
<p><u>Follow protocol</u></p> <p>§ Yes, we follow the Maricopa County protocol *</p> <p>§ Yes, try to do our best to follow Maricopa Co. protocol, however, when things happen fast there is not time to notify other agencies.</p> <p>§ For the most part the protocol is followed. When we get a case we follow it.</p> <p>§ CPS for the most part at Childhelp follows the protocol.</p> <p>§ I think the majority of the older patrol officers do a pretty good job.</p> <p><u>Do not follow protocol</u></p> <p>§ When we do not meet protocol and an investigation has begun without us, the element of surprise is lost. *</p> <p>§ Not necessarily, because we follow the Pinal county protocol but they don't have a formal protocol for how to handle crimes against children.</p> <p>§ It is important that you follow protocol. Some patrol officers do not follow it, nor do their supervisors.</p> <p>§ It is not always followed by patrol or by the schools and the victim doesn't always cooperate. It is hard to follow it when the victim refuses to do what they are supposed to do. CPS will go out and interview a person before a detective can take the lead in the investigation, so they are not following protocol.</p> <p>§ We see more of the problem of not following the protocol in the outlying areas.</p> <p>§ I am hoping the sergeants will be able to discern between calls that patrol can handle and calls that detectives need to go out on. It has been a real problem when the patrol officers are not consistent in following it. Some</p>	<p><u>Follow protocol</u></p> <p>§ We follow Maricopa County protocol and cross refer to police departments.</p> <p>§ In general, yes we follow the Maricopa Co. protocol and every exception that is made, is made with the approval of the supervisor. There may be some good reasons why a policy or procedure might not be followed, but the worker isn't the one who makes that decision.</p> <p>§ Yes, there are some gray areas and a new revision is being done.</p> <p>§ Yes, I work for the state. I follow the protocol because every time I ask my supervisor a question she tells me to look it up in the policy.</p> <p>§ Yes, with Pinal County, our district is a busy office. We are pretty particular in how we do things.</p> <p><u>Don't know protocol</u></p> <p>§ I do not know all the policies that I am expected to follow.</p> <p>§ I don't know what the county protocol is. If you are talking about the Interagency Policy that we work together with the police, then yes.</p> <p><u>Other policies and procedures</u></p> <p>§ When I see a violation in a group home, I report it to</p>	<p>§ No, I just use common sense *</p> <p>§ Not really, it depends on the situation and what the safety issues are. I interview the child privately and then discuss the problems with CPS.</p> <p>§ It varies and it is on a case by case basis.</p> <p>§ I assess a case by observing the child's environment, obtaining information from their caregiver, and determining how to meet the child's medical needs.</p> <p>§ I always check the placement to be sure that there is adequate food, shelter and look for safety measures. I determine if caregiver is appropriate.</p>

<p>officers are new and they haven't been able to learn the protocol or integrate it into their daily work.</p> <p>§ No, the protocol is not followed. Last year we were told, no more over time, no matter what. If we received a call at 3 pm and the last officer in office went home, then the report is given to the patrol officer. This officer then becomes responsible to find a safe place for the child. When patrol takes the lead initially, it may take the detective more time and work to gather evidence. Some evidence may get lost.</p> <p>§ No, we do not follow protocol, but are getting better.</p> <p>§ We try to follow protocol, but because of a budget crisis, we weren't being called out on cases. Instead, the cases were going to patrol.</p> <p>§ I would say that the protocol isn't always being followed. Most often we have a break down in the protocol not being followed. This happens when patrol gets a call to go out and we are not notified. This also happens when there is a breakdown of communication between patrol and the supervisor or between the supervisor and our unit. I think that we need more frequent training on the protocol and the following the protocol needs to be enforced.</p> <p>§ We are supposed to work as a team with CPS but it does not always happen.</p> <p>§ There are times when we believe a child should be removed from a home but CPS does not.</p> <p>§ Patrol officers have a high turnover rate and some may not know the child abuse protocol. We need to offer ongoing training to new officers.</p> <p><u>Who decides if case is submitted to prosecutor?</u></p> <p>§ The detective decides when a case is submitted to the prosecutor. *</p> <p>§ The detective submits the report and some times a higher up will determine if the case should be submitted. Some of the minor child abuse cases are submitted for liability reasons.</p> <p>§ The case agent decides when a case is submitted to the prosecutor. They are all reviewed by the sergeant and if it is a high profile case, then there are more people interested in it. The case often goes to the county attorney's office and they make the decision to file or not to file it and we are at their mercy regarding if they are going to take it or not.</p>	<p>our group home investigations and they determine whether the police are contacted.</p> <p>§ Families can be referred to Families First if they need only support and services.</p> <p>§ Our protocol for children and adults with severe substance addictions is counterproductive, with the courts doing little to help us help these families.</p> <p>§ We have a policy manual that we follow to a T.</p> <p><u>When substance abuse is a factor in the home, how does CPS treat the referral?</u></p> <p>§ We refer them to a drug treatment program. We make a substance abuse referral. From there, we basically keep in touch with the counselors and therapists for a report on how they are participating in their counseling. We focus on getting them into treatment. Our job is to basically make the referrals. *</p> <p>§ We used to have in-utero substance abuse reports go to family builders for follow up and substance abuse was taken as a lower priority case. That program was cut due to budget cuts and now the cases are going to CPS. We have units that will be specialized in handling substance exposed newborn cases now.</p> <p>§ Since the media publicized an infant death, substance exposed infants are now a Priority 1. They used to be a lower priority case.</p> <p>§ We have 2 units investigating substance-exposed newborns. When substance abuse is a factor we do a safety assessment and develop a safety plan. We are filing more petitions in these cases.</p> <p>§ We cannot get residential treatment for adjudicated youth with substance addictions, the courts and juvenile systems do not help these kids either.</p>
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In Harm's Way

TABLE 15
Should There Be a Referral to Law Enforcement for Every CPS Case?

Prosecutors	Police
<p>§ Some of the cases that law enforcement sends that do not fit the statute for criminal cases are then referred to CPS. *</p> <p>§ CPS should technically report to law enforcement, but their idea of reporting it is basically faxing all the reports over to child help. They fax over volumes of stuff and then say, okay we referred it to them but it is not a real referral per say. They do not prioritize those referrals.</p> <p>§ I am not sure if any of them do. I think we have the "best" child abuse statutes in the entire United States.</p>	<p>No, an army of officers would be needed. *</p> <p><u>Type of comments</u></p> <p>§ No. However, CPS should not investigate criminal abuse cases. The CPS worker should let the detective handle it. CPS is not trained to investigate.</p> <p>§ Absolutely not.</p> <p>§ No, we would need two more squads and there would be a need to have guidelines set up.</p> <p>§ No, we would have to have at least a half a dozen or a dozen investigators.</p> <p>§ No, every one in patrol would have to come up here, there is no way we could ever have that manpower.</p> <p>§ No, triple manpower or provide another police department.</p> <p>§ No, in cases of abuse, and especially sexual abuse, they should be cross-referring to law enforcement to take the lead in the investigation. In order for cases to have law enforcement in the lead investigative role, CPS has to follow the protocol. I have had cases where they have not followed the protocol and it was harmful to the case. If there is any disclosure made by a child regarding abuse or neglect, the police should be contacted to file the report. In some of these cases, there are red flags. If law enforcement were to be called out on every case then a lot more manpower would be needed.</p> <p>§ No, I don't think we should because of the man power that would be needed. It would be 4 to 5 times greater than what we have in place right now. Our officers would overlap with CPS on issues. Law enforcement should be called out on all cases of sexual abuse.</p> <p>§ No, I would like to see CPS do neglects and real minor abuse cases such as dirty houses and stuff like that. If we law enforcement were called out on all cases referred, more man power would be needed.</p> <p>§ No, sometimes there are people who are down and out and they can't take care of their kids. In these particular cases CPS can be very helpful in working with them. They just need intervention and help. When you have situations that involve an act of crime or severe neglect, physical or sexual abuse, law enforcement should be contacted and the case should be referred for a criminal investigation. CPS would need to have more shelters available for these people in order to help them get themselves together and get back on their feet.</p>

In Harm's Way

TABLE 16

Timeframes

Judges	Police	CPS Workers
<p>§ There are firm time limits in juvenile court for child abuse, child neglect and sexual abuse. They are found in Title 8 and Rules for Procedure for the Juvenile Court.</p> <p>§ There are no time limits in family court cases.</p> <p>§ In family court, most of the cases are resolved in 6-9 months, to allow for a custody evaluation/dispute, assessment, medical work-up.</p>	<p>§ There is no standard timeline. Sometimes a case can take a couple of months and sometimes a case can take a couple of days to complete. We have a case management policy that requires the completion of a 30 day supplement to the report. *</p> <p>§ We have no standard timeline, in custody cases; the paper work gets done sooner or later. *</p> <p>§ We have no standard timeline for investigating a child abuse case. *</p> <p>§ Our timelines depend on how busy we are and how many "fires" we have to put out.</p> <p>§ The system is overwhelmed with too many cases and not enough resources but no one wants to talk about it.</p> <p>§ We have to prioritize our cases based on safety and risk factors to the child.</p> <p>§ We don't have a time line to complete a case. For case management, we work the case as long as it takes. On a legal stand point there is a statute of limitations for a child abuse felony.</p> <p>§ We are really concerned about the new rule that is coming out, the exclusionary rule. It is going to be problematic; rule 15 will pose a huge problem.</p> <p>§ There is no standard timeline. Only when an arrest is made or we have enough information on a case, we have to submit the information within 24 hours of the arrest in order for the person to be charged.</p> <p>§ I am not sure if there is a time frame, but if so, I don't know if I have ever met it. We try to get CPS involved in cases immediately.</p> <p>§ The average abuse case can take up to 29 hours to investigate.</p> <p>§ Our caseload is fairly manageable. It is a priority that you grab a case that is real hot and fresh, you need to work on it right away. A case where there is no physical evidence anymore and it happened years ago, but just recently reported, it will take a back seat to the hot cases that need our full attention right now.</p>	<p>§ They are ranked in priority levels which take into account the child's safety, age, and where the child is at (home, shelter, hospital).*</p> <p>§ We have a priority system in place. Priority 1: two hours to respond to the report, priority 2: 48 hours to respond to the report, a priority 3: 72 hrs to respond to the report and priority 4, five days to respond to the report. For investigations, CPS has 21 days to investigate the allegation. Weekends and holidays count in the response time of the 21 days to complete that investigation and they have 30 days to close the case unless the worker can get approval by the supervisor to keep it open longer.*</p> <p>§ Regarding home visits or investigations, the worker has to see the home at least once during the investigation and it can depend on what the allegations are. If the allegations are that the home is hazardous, then that is where your response has to be and it has to be pretty soon, and if it is a physical abuse allegation, it may be appropriate to the worker would see the child. On another case, if the child was seen at school initially and then the worker made a follow up visit to the child's home then it would be an appropriate response for the investigation. In investigations, it depends on what the abuse or neglect allegations are.</p> <p>§ Most workers spend less than 1 hour during their monthly visits.</p> <p><u>Are the time frames adequate?</u></p> <p>§ Caseworkers are often pressed by the time frames outlined in policy. They cannot do an adequate job *</p> <p>§ Is the time frame adequate: Yes, I think it is adequate *</p> <p>§ Timeframes need to be extended, we are at the mercy of other agencies to collect data and/or deliver services. The other systems we work with should respond to our timeframes or CPS should deliver the services *</p> <p>§ I believe the time frames are adequate now, more so than in the past, we have a pretty good compliance rate as far as that goes.</p> <p>§ In investigations, it is a problem. We have 21 days to investigate a report. Detectives, who work abuse cases, have time to thoroughly investigate the allegation of abuse. We are hurried to assess the dynamics of the case and then a determination to substantiate or unsubstantiated the allegation of abuse. Many times, we just don't have enough time to work the case effectively and make an appropriate determination. We need more time to investigate our cases.</p> <p>§ In investigations, we have a time frame of 21 days and I do not know if we are allotted enough time, it depends on the resources.</p> <p>§ When we have police involved in the report, a lot of times it takes much longer to complete the investigation and we are no where near making a finding in thirty days, even though we are supposed to be looking at closing the case. The police do not have the same time frames that we do.</p> <p>§ I would say no, probably because some of us are overwhelmed with cases. Then you can't always be there. If we are unable to make visits, we make arrangements for other workers to help us out if they can. They could make the home visits for us. It's pretty frequent.</p> <p>§ No the timeframes are not adequate; we are already having a struggle with a heavy caseload.</p> <p>§ I think some of the timeframes are not adequate. I know of some cases where the time frames have not been met. You have to respond to twenty different commands. So, you are now responding to a case according to the timetable of what's most important and what your feelings are in determining how to prioritize them. In other words, what you feel is the most urgent to focus on first.</p> <p>§ It depends on the severity of the report.</p> <p>§ Depending on caseload, most CPS workers properly manage their time and complete their monthly visits on time.</p> <p>§ It depends on the case. In most cases it's probably adequate. They don't have enough time to complete the required paper work. The priority response time to investigate an allegation is sufficient.</p> <p>§ Yes and No. It would be adequate if the number of reports that came in per week were less or if the complexity of the report that came in were less. If we could address the workload issues, I think the time frames would be closer to being appropriate.</p> <p>§ If the field needs to respond more quickly, I can find ways to bring this about.</p>

In Harm's Way

TABLE 17
Time Needed to Finish a Case?

Police
<p><u>Initial contact</u></p> <p>§ We need more manpower to ensure we get to these cases and the child is examined right away while the evidence is still fresh. *</p>

- § If too much time is lost, you can lose evidence and the victim may not feel like going through with the case. *
- § We need to respond to the case as soon as possible, if the child is in the house.
- § It depends on allegations but within 72 hours.

Time need to finish a case

- § It depends on age of victim. The smaller the victim, the shorter the time frame (a few days), the older the victim, the longer the time frame, (a couple of weeks). A victim over 12 years, (a month or two) as long as they are safe.
- § In working a case, the main goal is that first and foremost you must protect a child. We should be able to conduct a full investigation without time constraints. I think that CPS needs to provide a safe placement for that child until our investigation is completed. CPS should be given a longer time line to keep a child in a safe placement. They should not have to put a child back into an unsafe placement because of a 21 day timeline restriction they are under to complete their investigation.
- § I couldn't say. Obviously, the sooner I can complete a case, the better. Usually, a case doesn't go to trial for probably a year at best. In the past three years, we haven't had any cases go to a jury trial. It depends on the case, some take longer to complete than others. Some cases are more complicated than others to investigate.
- § It all depends on the cases and how much investigation is needed.
- § It depends on how fresh the evidence is when addressing a timeline. For example, are you talking about a two year delayed molestation case where you don't have enough evidence or in incident that happened last night? When the case is delayed, you may be able to collect other types of evidence. If you only had one case to complete from beginning to end, three days to three weeks to investigate the case would be considered reasonable.
- § The number one issue is the re-victimization of the victim. If the case can not be responded to in an adequate time frame, you could fail in corroborating the child's disclosure. It can also affect your reputation because the parents' call very upset that nothing has been done on the case. Another outcome a delayed investigation can create is the problem of the offender being out there able to victimize other kids.
- § Obviously if an investigation is not done in a timely manner, it lowers the probability of it being prosecuted in the first place. People forget things or don't want to be involved in it after awhile. People say they just want to forget it and move on.

% of cases that fail to meet time line for investigation

- § A majority of the time, we don't meet the time line.
- § About 99% of the time we fail to meet a time frame.
- § Approximately 75% of the time we don't meet a time line.
- § In all of the cases. Truly, I don't know if a time line exists. For case management requirements the case is supposed to have a supplemental report in thirty days. It is a policy, but we never meet it. We are never able to meet that timeline.
- § About 70% of the time, we don't meet the police department timeline.
- § About 40% of the time we don't meet department timelines.

In Harm's Way

TABLE 18

Issues and Barriers

Police	Foster Parents
<p><u>Resources</u></p> <ul style="list-style-type: none"> § Lack of manpower is the main problem. Child abuse cases take a significant amount of time to complete; we have a current backlog. * § Budget constraints are an issue; administrators don't know the length of time that it takes to conduct an investigation. They don't understand that crimes against children are handled differently. * § We need to have an operational manager in our unit. § If you went around and looked at all of the detective's desks you would see stacks of video and audio tapes. They all need to be transcribed and we have no support staff to assist us with this. § The primary issue is money and financial support and leadership support. We need more support from our leadership and commanders to understand that child crimes takes a lot more time than other details and we need a case load that we can work effectively. § Money, every thing is based on money. Patrol could benefit from money to promote officers and we could improve if we had more manpower. If more officers were on patrol then other officers could be pulled out into detective positions. § The amount of time required to conduct a thorough investigation can create a backlog of cases. <p><u>Training</u></p> <ul style="list-style-type: none"> § It is important to stay current on abuse and neglect issues, which makes continual training always an issue. * § A real problem in rotating the officers. That policy should be lifted so we can keep trained officers in the child abuse unit. <p><u>Evidence and false reports</u></p> <ul style="list-style-type: none"> § We get cases involving a lot of allegations from one person to the other and vice versa. So it takes a good detective to do a really good interrogation to get a confession and if that doesn't happen, then the case goes nowhere. * § The county attorney does not prosecute enough cases. If the case is not perfect, they won't submit it. The county attorney should take the chance even if the case is not perfect but certain elements are there. § Some people false report simply to manipulate the system. Alleged abuse can take a lot of time to 	<ul style="list-style-type: none"> § Reunification should be prohibited to families that are still dysfunctional after one year. These families are not able to meet the emotional needs of their children. * § There is a problem with poor communication between professionals who are a part of the system. Often, we are not given adequate information prior to the child's placement. * § Rural locations are a barrier as case managers don't want to drive that far. * § We do not feel that the Foster Care Review Boards are effective * § We see a problem with the turn over rate involving caseworkers. § It is a problem when the caseworker does not return calls. § Case workers are faced with heavy case loads. § There is a new law stating children should not linger in foster care, yet many children linger which is emotionally damaging.

§ investigate and it can eat up a lot of the detective's time when the report that has been made is false.
§ If we could have another two or three people doing investigations like this then it would be great.

In Harm's Way
TABLE 18 Continued... Issues and Barriers

CPS Workers

Resources

§ We have a high caseload. *

§ The lack of manpower is an issue. It leaves the worker with not enough time to adequately investigate a case. *

§ If workers could concentrate in quality vs. quantity. We don't have enough time to concentrate; we try to find ways to patch things up. The biggest problem is manpower and caseload.

§ We end up doing the very minimum to help children and not to expend resources.

§ The poor pay of caseworkers is a barrier to recruiting and keeping a quality professional casework staff.

§ Our information database and record keeping is lagging behind. There is no integration of the computer systems so we cannot access comprehensive information or find out what services a family received.

§ I think it would be better if we had option providers and we could get the services in place faster.

Job stress and knowledge

§ Across the board there is a high turn over rate. There is job related stress and heavy demands on workers. If a case blows up in the media, the workers don't feel supported. It is hard to maintain morale. *

§ The lack of training. Many workers come in with no experience in working with children and families.

§ The level of knowledge the field worker has regarding medical issues is less than adequate.

§ Another barrier is that we are just now implementing safety assessment tool and there will be a learning curve in using this tool.

§ We are not sure where the break down is; how many cases that should have been substantiated were overturned.

§ We operate in a crisis mode.

Family services

§ Mental health services are not as responsive to the family as they should be. *

§ The length of time too long to wait for services*

§ I think parents who are addicted to substances aren't able to move towards recovery.

§ Parents not working with the case plan or with the case worker. A case manager we can do only so much with out other parties stepping in and helping out.

§ Our agency is lacking in contracted services for domestic violence.

§ We have some good agencies in our area that provide good services; but they're not as experienced as they need to be in working with the complexities of the families that we have in our system.

§ A lack of motivation on the parents' part is a real problem.

§ I disagree with the policy that we are supposed to give kids brochures written on an adult level and not on a child level.

Lack of cooperation/communication

§ It seems like the goal of the system is NOT to work with other agencies and the community, they're territorial and not held accountable. *

§ It seems that there is a distrust/lack of communication between agencies. *

§ Services may be duplicated from one system to another and there is no coordination of efforts between various systems.

Placement options

§ There are not enough placement options and too many children needing placement *

§ Shelters are not therapeutic and inadequately staffed.

§ There are a low number of adoptive families for older children.

§ Safe and timely placement options not adequate to meet the demand.

§ I question the quality of many of the group homes we have, there is no oversight. How do you know if a child is any safer there than in their abusive home environment?

§ The whole foster care system needs to be reassessed. The system may not be equipped to deal with children's issues. There are not enough qualified foster homes to care for children.

Legal/policy issues

§ For safety purposes, investigations can only document facts. It is difficult to remove a child without evidence (i.e. drug exposure, bruises, etc.)

§ Arizona is a parents' right state vs. a child's rights state.

§ Do they use a bar so high that the proof needed is unrealistically high? We wonder who plays a role in the decision making process and if the decisions made are in the child's best interest.

§ State statutes changed the adoption law for relatives; however commissioners and judges continue to practice old law.

§ The court decides certification of adoptive families vs. social workers. We should be able to have social workers who can certify adoptive families.

§ The judges ruling on placement to foster parents vs. relatives can be an issue.

§ The lack of consistency in judges' rulings is an issue.

§ "Imminent danger" should be more specifically defined to result in more consistency in the handling of abuse cases.

§ The circumstances that define when to discontinue reunification efforts should be expanded; not to just involve cases of abuse. In cases of neglect, there should be grounds to discontinue reunification efforts as well.

§ Courts making unrealistic demands on caseworkers to make things happen in a case (like mental health services) that we have no control over. We rely on community agencies for services.

§ We need to prevent cases from falling through the cracks. We also need to find better safety and risk assessment tools to use throughout the case.

§ A case where mom is on meth, we dismissed the dependency because the child was going to stay with her grandmother. The mother could revoke the 6 month power of attorney at any time and we would have to start over again.

§ The laws in this state protect families. We have family centered practice here.

In Harm's Way

TABLE 19

Under What Conditions a Child Should be Reunited with a Caregiver Before the Police Criminal Investigation is Completed?

Community Service Providers		Physicians & Medical Social Workers
When they can provide a safe home and go through treatment. That's basically it. *		§ When the risk factors have been eliminated and monitored *
<u>Type of comments:</u>		§ Depends on a lot of factors. When it does occur, it needs to be carefully supervised.
§ When the family is accountable to providing a safe and nurturing home and support systems are in place.		§ When the parents or guardians have acquired the necessary skills to care for the children
§ When caregiver has demonstrated and proven to be self reliant and capable of handling the child in a safe environment. When the caregiver has demonstrated an understanding of child development, and they have proven to be self reliant, capable of handling their child in a safe environment.		§ If the problem was a crisis situation vs. chronic problem
§ When there is assurance that the child will be protected and that the risk factors have been removed.		§ Drug rehabilitation completed.
§ If the caregiver is not doing the abusive behavior, whatever it is, doing drugs, hitting child, etc. If the parent receives a proper education and has a parent aid and the attitude of the parent has improved to demonstrate that they care about the well being of their child. These parents are few and far between. The parent has to demonstrate a desire to take a more proactive role in protecting the child.		
§ When steps have been taken to remediate the problem that brought them into care to begin with. One size doesn't fit all. You can't just say, "Let's send someone to a parenting class or get them drug or alcohol rehab, or all you have to do is get a job." With these families, there rarely is one single factor that brought them to the attention to CPS, so we need to work on more than one issue at a time with these families and personalize the services to meet their individual needs. Once we think it is safe for the children to go back, we should have ongoing monitoring of the case. The family needs follow up.		
§ If something has been done to change the factors that caused the injury to begin with (change is the key word), If the reduction of those factors have been addressed and taken care of, then you can reunite the family. It is important to maintain contact with the parent caregiver and monitor the situation. Parents have to accept responsibility for the factors that caused the injury and demonstrated that they have done something to reduce the risks that led to their child being harmed.		
§ Reunification can take place when the caregiver has complied to the case plan and all parties agree that the caregiver is truly prepared to take on the stressful management and care that is necessary in reunifying the caregiver with the child. There needs to be continued close monitoring at different times of the day and evening to make sure things are working favorably in the home. The monitoring needs to be extended as long as it is needed, until the family is stable. On going monitoring is essential to make sure the family remains stable. Monitoring the situation for a year and a half would be appropriate.		
§ When goals are met for these parents to be able to care for their child. The goals should be realistic, measurable and monitored. The services need to be monitored and further action should be taken in cases of parents who are not following through. They shouldn't be given chance after chance. Monitoring of the family is important to ensure that the goals are being met. Often, what we see is that after the case is closed, the family resumes as it did before. Cases are not kept open long enough to assure child safety. The community should be involved.		
§ Caregivers should have to complete parent training and prove they are capable of caring for their child. They should be able to gradually come back into their child's life.		
§ Once we think it is safe for the children to go back, there should be ongoing monitoring of the case.		
§ When the caregiver has done what they need to do (i.e. parenting classes, substance abuse treatment) and it is safe to return the child, the family should be reunited. If these requirements are all met and the parents are actually making an effort to reach their designated goals, then they should be reunited with their child. CPS should monitor the case to assess child safety.		
§ Once the parents have demonstrated that they are going to properly care for their children and CPS can continue to watch them for a significant amount of time after they have been reunited.		
§ If the perpetrator in the family out of the home. Or, in a case involving domestic violence; mom understands that she has to change the way the family has lived and accepts services, then CPS should keep the case open until they feel sure the family is on a right track. These kids love their parents and if they can be reunited it is a goal worth looking at. However, when the parents are given chances and things have not changed then kids should be moved into the system quickly and placed in a safe and healthy home.		
§ If that caregiver has been able to maintain his or her support systems (seeking education, learning how to lower their stress levels, maintaining lower stress levels) and being able to show that they are truly concerned and care about the wellbeing of their child and are willing to protect, they should be able to move toward reunification.		
§ Depending upon the particulars in the situation and depending on the type of abuse, if it was family situation or caregiver situation. I guess the child should be reunited with a caregiver only after a period of time has elapsed pertinent to the particular case. There has to have been supervision and education or treatment in the areas that the caregiver was lacking in. Reunification can take place only after every single thing has been dealt with and people feel that the placement is safe and the caregiver stays connected to the system.		
§ Only if the parent has reformed. If they have been given too many chances it just lessens the child's chance of finding permanency.		
§ Intensive, time-limited services should be given to parent who is up front successful in meeting the expectations of the case plan. At that point, the child can be returned. If the goals are not met then parental rights should be severed so the child can find a permanent/ adoptive home.		
§ When the parent has improved, they still need to be monitored to be sure the changes are permanent and the child can be kept safe.		
<u>Other comments</u>		
§ I don't know, I think that's hard for CPS to determine. You want the child returned if they can care for the child. You'll never know, I think it's hard for them to decide. I see parents say ok, they go through the system, they say I'll do this and that and you are assuming they're following your directions and they're learning what they need to learn. You return the child but you're not sure if it's ok for the child to go back into that environment but I think it is the hardest decision you can make.		
§ Why were they ever taken away from the caregiver? Was the caregiver the one who abused them? This is one of the problems; the child should not have been taken away from the caregiver unless the caregiver was the one who was actively doing the abuse. They should be reunited immediately. If the caregiver was the one who was actively being abusive, then they should be reunited when the caregiver is held accountable, received appropriate services, and acknowledged that they had done something wrong.		

In Harm's Way

TABLE 20
What Should be Done With Babies Born Substance Exposed?

Judges	Prosecutors	Police	CPS Workers	Foster Parents	Community Service Providers	Physicians & Medical Social Workers	Guardians Ad Litem
§ If home is safe, a parent should be	§ It should be a crime. * § It is child	§ It is a crime. * § Remove the baby from the	§ There should be close monitoring of	§ Babies born substance exposed	§ It is a crime. * § Criminal charges	§ When you have somebody	§ The baby should be tested for

	given a mentor parent to assist, along with Family Builder services.	abuse; should be at least a Class 4 felony. If you assault a woman and kill the baby in the womb, you can get time for it; what is the difference? *	mother and place in protective custody pending investigation. *	the families. The parent needs to be held accountable. *	should not leave the hospital with that parent. It is better to disrupt the bonding issue than have an abused child. *	against parents, take the child away until mom cleans up with mandatory treatment. *	that is putting a baby in a perfect meth lab which is the uterus, it should be an automatic trigger.	drug and alcohol exposure before leaving the hospital. CPS should step in right away and get services going, if they don't comply – severe parental rights. *
§	Move to swiftly remove the child from the person(s) who would seriously endanger their lives.	§ CPS can and should remove the child from the parent using drugs *	§ Prosecute mothers who use drugs heavily and don't return the child to them until they are clean. *	§ We need clear guidelines to handle these cases. *	§ The child should be removed and placed for adoption as the mother will probably not have any more concern for the child. *	§ Babies should go into CPS care when a parent has a history of having substance exposed infants *	§ I consider in utero drug abuse child abuse and much more, that baby is at a greater risk. *	§ It should be reported and the parent should be offered an in-house treatment program to attend with her child. *
§	The child should be kept in the hospital as long as possible and receive all necessary medical services.	§ There needs to be some protocol for mandatory drug testing and medical follow up with kids. *	§ If you have a baby born with cocaine or meth in system at the time of birth, parents have no business with their kid. *	§ Would not support blanket removal.	§ CPS should investigate these cases.	§ If there was more money, more services should be provided up front. *	§ Babies should not have to go home and prove they are safe in the home.	§ The parent must be held accountable and better available treatment programs are needed.
§	Public policy is better left to the Legislature.	§ Changing the law could change the right to choose to have an abortion.	§ Offer more services to mother, make welfare contingent upon staying "clean" and providing a good home for the child.	§ Court mandated treatment. *	§ Parents should be criminally prosecuted.	§ The parent is in need of close medical supervision and family monitoring *	§ The baby should have a home health nurse to monitor the child on a regular basis with coordination and information sharing with the hospital. *	
§	We don't do anything for fetal alcohol syndrome, but need to; research indicates those children have a greater tendency to be violent and act out in a sexually inappropriate manner.		§ There has to be a law like the one in California. A baby who is substance exposed should be a felony child abuse class 2, for the mother who used the substances during her pregnancy.	§ In-home dependency and safety planning		§ We need to have mandatory treatment and hold the parents accountable. *	§ I consider in utero drug exposure child abuse. That baby is at much greater risk. If a woman did not care enough to stop doing this when she is pregnant with a child, is there any hope that she will be able to parent a child? I don't think so.	
§	We need to know more about what happens to substance born children to determine a policy of handling those cases.		§ There has to be a law like the one in California. A baby who is substance exposed should be a felony child abuse class 2, for the mother who used the substances during her pregnancy.	§ Make it a law that it is a crime. *		§ It should be dealt with through CPS policy and consequential action. No law changes are needed, just enforce what we have.	§ There should be mandatory compliance with services or the mother loses her baby. *	
			§ Offer more services to mother, make welfare contingent upon staying "clean" and providing a good home for the child.	§ Provide more preventive services during pregnancy.		§ We need to look at all the factors. There are some parents who are able to parent their children who are using drugs.	§ Criminalize abuse and give the parent a chance to plea with court mandated services. *	
			§ There has to be a law like the one in California. A baby who is substance exposed should be a felony child abuse class 2, for the mother who used the substances during her pregnancy.	§ I would like to see the policy changed we have an interim policy came to effect after the Andrea case. I think the agency did a knee jerk reaction.		§ I don't think the answer is to yank the kid away from her parent and throw the kid into a foster home.	§ A lot of these kids would do well if they went into alternative placement. You have to look at other	
			§ There has to be a law like the one in California. A baby who is substance exposed should be a felony child abuse class 2, for the mother who used the substances during her pregnancy.	§ We need a law to determine the risk and classification as abuse or neglect.		§ The parent should lose her rights to her child.		
			§ There has to be a law like the one in California. A baby who is substance exposed should be a felony child abuse class 2, for the mother who used the substances during her pregnancy.	§ A comprehensive needs assessment should be performed with the input from the medical staff.		§ The safety of the baby should be evaluated first; mother should be sober. She should get out of that kind of environment.		
			§ There has to be a law like the one in California. A baby who is substance exposed should be a felony child abuse class 2, for the mother who used the substances during her pregnancy.	§ Provide more education to mom.		§ I think that in all cases and on all levels, children should not be put in harms way. I don't think people		

					<p>do a very good job sometimes of determining what is in harms way.</p> <p>§ Better means of birth control should be looked at including sterilization for these mothers who deliver multiple substance-exposed babies.</p> <p>§ A mandatory parenting course for first time parents.</p>	<p>factors that affect the unborn child including: pre-partum nutrition, pre-partum health care, pre-partum lifestyle on the part of the mom, all of these can have an affect on the fetus along with pre and post natal drugs and it is hard to sort it all out within a drug infused family.</p> <p>§ These people chose drugs over their baby; it is a tremendous risk factor and abuse.</p> <p>§ These babies need protection.</p> <p>§ It can adversely affect a baby.</p>	
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In Harm's Way
TABLE 21
Recommendations

Questions	Judges	Prosecutors
<i>Systems changes to improve state response</i>	<p><u>Resources</u></p> <p>§ More resources available for parents to get help *</p> <p>§ Provide adequate resources for professionals to do their job. *</p> <p>§ More available mental health services. *</p> <p>§ We need more foster parents.</p> <p>§ Remove workers who are not committed and dedicated.</p> <p>§ Provide legal representation for children in these cases.</p> <p>§ Improved prenatal care</p> <p>§ I believe the tools already exist to act efficiently as possible.</p> <p>§ Resources are needed to provide for legal representation for children in family court; and for additional counselors and evaluators.</p> <p>§ Funding to order "risk assessments".</p> <p><u>Policy</u></p> <p>§ The key legal and judicial issues depend on the type of case. In all cases, the child's safety should be the paramount concern.</p> <p>§ Look at all available research, as well as best case practices and determine what is appropriate.</p> <p>§ Juvenile sex offenders should not be transferred to adult court if it can be demonstrated that they were victimized so that they can receive adequate training.</p> <p>§ Ensure foster children at age 18 may voluntarily remain in system to finish their education, etc.</p> <p>§ Make divorces an administrative process unless there are allegations of abuse or neglect.</p> <p>§ At times, children are required to testify, which is rarely in their best interest in these types of cases.</p> <p>§ Need for time limits in family court.</p> <p>§ Mandatory and combined training and certification on abuse issues for social workers and law enforcement.</p>	<p><u>Resources</u></p> <p>§ More manpower is needed and we need to be able to work more closely with CPS. *</p> <p>§ More funding for officers in their unit, crime lab, homicide cases and abuse cases. *</p> <p>§ Our caseloads need to be reduced. *</p> <p>§ It needs to be easier to get CPS reports and to access information instead of filing motions and arguing with people; reports not turned over without court order. *</p> <p>§ We need more prosecutors to handle the caseload and to hire investigators in our agency to follow up on cases that police are not able to.*</p> <p>§ More funds for experts, we need more training for attorneys. *</p> <p>§ CPS needs more money and they need to be given more flexibility to enforce safety.</p> <p>§ Police assist and co-work cases often.</p> <p><u>Policy</u></p> <p>§ Start with CPS, our biggest concern; again change the focus from unification to protection of the child. *</p> <p>§ First goal – make child safe, second goal-investigate, third goal counseling and services, fourth goal-reunification.</p> <p>§ Caseworker should have the discretion that a child is in imminent danger to make a decision with some degree of amnesty. *</p> <p>§ Parents should not be allowed to refuse services.</p> <p>§ Other jurisdictions don't contact us as soon as they should or even if you do get called you get called late.</p> <p>§ CPS assessment tool is not working.</p>

	<p><u>Law changes</u></p> <p>§ For the legislature to decide.</p> <p>§ Statutes are not the problem; it's the lack of interest if there is no police involvement.</p> <p><u>Prosecution issues</u></p> <p>§ Law enforcement should tape record all statements of suspects. Ensure that professionals interview the children.</p> <p>§ Attorneys should all be prepared to try the case as soon as possible.</p> <p>§ Lawyers need to take the time to fully investigate the facts and advocate for the best interests of the children through their eyes.</p> <p><u>Prevention</u></p> <p>§ Parenting education in schools. *</p> <p>§ Childcare and living wages.</p>	<p><u>Law changes</u></p> <p>§ Mandatory reporting law; needs to be less "wiggly room"</p> <p>§ What CA does with DV, AZ should with do with DV and child abuse, make it easier through our evidence code to be able to bring out prior incidents of child abuse with out having to jump through loop holes.</p> <p>§ Declare prenatal and perinatal use of illegal drugs to be the crime of child abuse.</p> <p>§ I don't know why you can assault a stranger and it won't go off your record but assault a family member and it can be cleared.</p> <p>§ If maybe we modified 3601 M and limit the ability it is used it may be helpful. It could be modified to be at the discretion of the prosecutor.</p> <p>§ CPS doesn't have the statutorily ability to remove the children that need to be.</p> <p><u>Prosecution issues</u></p> <p>§ What needs to change is the attitude of our jury panel so they understand children are not the property of their parents.</p>
One or two recommendations to improve safety/protection	<p>§ Provide adequate resources *</p> <p>§ Sufficient training.</p> <p>§ Ensure people who work in this field really care about kids and not process.</p> <p>§ Look at all available research, as well as best case practices and determine what is appropriate for Arizona.</p>	<p>§ More efforts toward prevention, public education *.</p> <p>§ More money, more manpower</p> <p>§ Be able to use prior reports of abuse in home as evidence in current cases</p> <p>§ Mandatory classes for parents on child rearing.</p>

In Harm's Way

TABLE 22

Recommendations

Question	Police
<p>Systems changes to improve state response</p> <p><u>Resources</u></p> <p>§ Need more manpower/overtime to work the cases on a timely basis, limit caseloads. *</p> <p>§ CPS needs to have more funding and higher pay so they would get more competent caseworkers. *</p> <p>§ Not enough placement options or treatment when you do have to place them. *</p> <p>§ That is when it comes down to priorities, they have to be willing to cut other departments and let us do our work to protect children. *</p> <p>§ Need more services/resources for people. *</p> <p>§ We need a police child abuse unit that deals with the school districts.</p> <p>§ There should be a centralized database where all information relevant to investigating cases can be accessed.</p> <p><u>Policy</u></p> <p>§ Better training for patrol more accountability within department on protocol. *</p> <p>§ Detectives should be able to go out on every case, so that the case can be done properly the first time. *</p> <p>§ Should have a protocol as a state standard, you could have more agencies working together and on the state level we could all be mandated to handle cases in a certain way. *</p> <p>§ Policies are there; the problem is they are not always enforced. We aren't able to follow protocol. *</p> <p>§ Child Protective Services should get rid of their 21-day time line to investigate a case and follow lead of the detectives. The detective should be the first to interview the parent. *</p> <p>§ Need a better system of evaluating kinship care placements; you can't just rely on background check.</p> <p>§ A lot of our cases come from different jurisdictions. Due to the procedure to travel and meet up with these families, we have to go through a lot of paper work and wait to get approved for travel.</p> <p>§ Increase collaboration between agencies.</p> <p><u>Law changes</u></p> <p>§ Neglect laws need to be clarified and strengthened (too vague). *</p> <p>§ Need to legislate coordination of protocol and timelines between CPS and PD.*</p> <p>§ Another law that needs to be tougher is our stand on substance-exposed babies. *</p> <p>§ Higher class felony charge for continuing maltreatment of a child, or multiple incidents of abuse or neglect.*</p> <p>§ Have graduated laws that show the difference between a 16 year old and a 40 year old, or a 14 year old involved in Internet sex with a 40 year old. Or a law specific to handling the difference between a 15 and sixteen year old having sex as compared to a 16 year old having sex with a 50 year old. *</p> <p>§ The legislation should change the primary goal of CPS to child protection and not have them focus on the case plan of reunification; rather the case plan should be protection of the child. *</p> <p>§ CPS should have the authority to remove kids sooner than what they are able to do.</p> <p>§ Supreme Court just ruled that computer pornography is okay. It needs to be against the law.</p> <p>§ The physical abuse needs to define the type of mark on a child that constitutes abuse and define whether a mark needs to be a permanent mark or a temporary mark or an abrasion to make it clear.</p> <p>§ Mandatory reporting statutes as far as the religious community is concerned and what they are required to report on.</p> <p>§ Peeping Tom laws need to be strengthened.</p> <p>§ The CA charging standards needs to be more clarified. And when it comes to cases of parents smoking crack in front of children, we need to have the CA's</p>	

	office charging standards clarified.
	<u>Prosecution issues</u>
	§ All in all, the laws are pretty tough; we just need to follow them and use common sense. We need prosecute more cases. *
	§ The county attorney's office has to take more cases and have consistent policy within the office when reviewing cases.
	§ False reporting needs to have more serious consequences and be prosecuted. *
	§ DUI laws, if you reach a certain alcohol level you will be prosecuted, domestic violence laws are the same and crimes against children filing guidelines should be standardized as well to get them to file more cases for the best interest of the child.
	§ Rule 15. It will effect investigations and serve as a defense that we didn't conduct a proper investigation.
	§ Judges need to stop letting kids be raped again on the witness stand when they are cross-examined.
	§ The other problem that I think the judges' run hot and cold on bonds.
	<u>Prevention</u>
	§ More has to be done in the area of prevention, educate the public, media, and kids about the definition and scope of child abuse, public information campaign. *

In Harm's Way
TABLE 23
Recommendations

<u>Question</u>	
	<i>CPS Workers</i>
<i>Systems changes to improve state response</i>	<u>Resources</u> <ul style="list-style-type: none"> § The state must provide adequate human resources to do the job CPS is called upon to do. * § Community needs better resources for marginal families. Tap resources to parents who have parenting skills and people who are available to care for kids. * § Maricopa County should have an adoption, or referral worker, so I don't have to find our foster families. Difficult to keep up with cases. § Group homes should be model facilities as an ideal alternative, bring back good orphanages * § Higher quality shelters with better-trained staff. § Show how money is being used for children. § Juvenile probation no funds for their foster homes. We have to provide. Pay for their systems. <u>Policy</u> <ul style="list-style-type: none"> § If a mom delivers a substance-exposed baby then she should be mandated to stay in a treatment program. * § Value Options must be held accountable for providing timely, quality mental health services. * § For our agency we have issues and we need to find a way to better serve the needs of families and children and to better protect children. * § Widen circumstances defined to discontinue reunification efforts; not just abuse, but neglect to be grounds as well. § Mandate forensic training for all CPS staff. § Integrating medical staff personnel to collaborate and receive information to improve our formulation of the case plan. § Mental health services should be revised by early identification of "at risk" babies. § I would change substance abuse treatment and the whole substance abuse treatment model. § Better organized response to marginal families, either stronger Family Builders, county resource systems through schools or healthy families. § Safety assessment tool use needs to be monitored and utilized well. § Time frames need to be more flexible. § Need to look at how reports are being substantiated. § We give kids who are able to read, very large brochures that talk about what our job is on an adult level and not on a child level --scares them. § Give CPS ability to mandate services. <u>Law changes</u> <ul style="list-style-type: none"> § Neglect needs to be more clearly defined, families held accountable * § The child should be the biggest priority, not adults. * § Substance exposed newborns should be specifically addressed by the law. * § Define "imminent danger" more clearly * § Tougher penalties for the crimes committed, laws stricter on child molesters. * § Reinvent the foster care system, group home make it a priority. Monitor them; the children are not being listened to. § Remove CPS from DES. § The laws need to be looked at differently to govern us. Accountability, monitoring should be increased. A lot of the times its management problems. § CPS under the umbrella of police department. However, concern is that system would become more punitive. § Group homes need to have the authority to keep kids from running away. § Would like to see Level 4 priority cases have mandatory classes or services. <u>Prosecution issues</u> <ul style="list-style-type: none"> § Better prosecution of abuse cases by county. 100% investigation. * § Courts need to take big picture into consideration and enforce the law while taking into consideration best interest of child. § Law enforcement should be involved in initial investigations. § For law enforcement, I would like to run across more officers who are willing to take more reports of physical or sexual abuse. § Officers need to respond a little quicker when the alleged perpetrator is in the home. § Better training for those who are enforcing the laws. <u>Prevention</u> <ul style="list-style-type: none"> § There is just need for more education, making sure that services are available for these families and being able to educate the client in all the resources and increase community involvement. * § Place an emphasis on lifestyle, nutritional intake, especially in young children and babies and gain a better understanding of medical conditions.

In Harm's Way**TABLE 24****Recommendations**

Question	Community Service Providers
Systems changes to improve state response	<p><u>Resources</u></p> <ul style="list-style-type: none"> § The first thing they need is more money. The case managers have so many cases, they are extremely short staffed. * § Improve competency, training, and retention of CPS workers. * § Foster care parents need to be increased and improved upon and positive incentives and expectations. * § Improve mental health services. Adequate mental health and therapeutic group homes must be developed. * § DUI fines raised and revenues sent to CPS. <p><u>Policy</u></p> <ul style="list-style-type: none"> § Whether law or policy, CPS should be empowered with clear guidelines for removing a child from a home, should be able to intervene based on a preponderance of facts/evidence. * § Improve collaboration in the system where professionals involved in these cases are a part of staffing and their concerns are incorporated in the case plan. * § Change mechanism for children to get medical and/or resources needed in a timely manner. * § Create a team approach to case planning to prevent arbitrary decision-making by CPS, mandated multidisciplinary teams, more extended monitoring of cases. * § Look at the way we calculate the substantiation rate. The way they categorize all the different cases. § Clarify and follow stringently all CPS policies and monitor that there is consistency in the agency's adherence to policy. § Reorganize CPS to assign one worker to shelters so we have one point of contact. § CPS needs to consider all factors. They need more factors to look at when assessing the severity of a referral. And they don't look at the whole picture. § Caseworkers spend an enormous amount of time trying to get the kids eligible for some kind of treatment or services. There shouldn't be so many layers. § Develop a better way to track families who relocate, don't unsubstantiated cases where family moves during investigation. Have file in central database, so vital information is not lost. <p><u>Law changes</u></p> <ul style="list-style-type: none"> § Neglect and chronic neglect should be clarified and spelled out (presumption of neglect and abuse). * § Move beyond reunification for severance or another avenue to keep children safe, balance between parent's rights and children's rights need's to be reprioritized. * § Criminalize the child abuse law to include substance exposed newborns.* § More to be done to mandate services and to be able to act on it when a parent doesn't follow through, to help the child. * § Parents should be held accountable and/or prosecuted for abuse or neglect, harsher laws. * § More should be done in situations where a professional fails to report abuse when they are aware something is going on. * § Create clearer roles at CPS and for community providers. There has to be accountability, none as it stands now. There is no accountability for the judges, no accountability for CPS. * § Give CPS ability to remove substance exposed newborns and mandate treatment services. * § Penalties for abuse and repeat abuse should be increased and enforced. § Physical abuse including shaken baby syndrome should be more specifically clarified in the laws. § The laws need to be redefined so domestic violence comes into play. § Pull CPS out of DES and put it with behavioral health services for kids. Have one system that directly deals with kids instead of several bureaucracies such as DES and DHS, etc. § Have CPS director report to the Governor. § Interagency coordination between DES, DHS, Police and courts needs to be institutionalized. § Mandate parenting classes for new parents or certification course for parents. § Our welfare laws need work. § Children need to be in school and schools districts need to be held accountable for monitoring truancy and keeping kids in school. § Laws that recognize the sanctity of the relationship between siblings. More efforts need to be placed into keeping siblings together. § When child free for adoption, transfer custody to private agency. § Arizona is the only state that does not allow social workers to certify adoptive families and they should be. § The appeal process needs to be revamped. They have a higher criminal standard than criminal court. <p><u>Prosecution issues</u></p> <ul style="list-style-type: none"> § The court lacks education regarding substance & emotional abuse and what works with these families and what doesn't work. All parties need to be educated. * § There is not enough information sharing among CPS and agencies involved and collaboration on these cases and this can hinder how CPS manages a case and the outcome of the case.* § Law enforcement and CPS need to improve how they communicate with one another. They do not always cross refer. Maybe PD can have access to the central registry and CPS can have access to some police information. It would be nice to see CPS officers go out together on these calls.* § At the first time in court, judges should be clear of the expectations of the parents and put it in the minute entry. § One of the things would be attitude. Patrol officers who go out do not often have the skills to assess family violence situations. <p><u>Prevention</u></p> <ul style="list-style-type: none"> § Funding, health care, spending more on prevention: teen pregnancy, day care, parenting, substance abuse, and mental health information. *

In Harm's Way**TABLE 25****Recommendations**

Question	CPS Workers	Community Service Providers
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<p>One or two recommendations to improve safety/protection</p>	<p>§ Community education to help people to know when to report and how to report. Better community awareness and to recognize what abuse is. *</p> <p>§ More funding, more manpower, increase salaries to produce better employees *</p> <p>§ Triage each child that comes into care.</p> <p>§ Increase resources for mental health services.</p> <p>§ Recruit more ethnic minorities to be adoptive families by making it a more comfortable process.</p> <p>§ Greater focus on core issues.</p> <p>§ A lot of responsibility needs to be placed on the prosecutor's office to put into place a higher standard of plea agreements and to not be afraid to go to trial on cases.</p> <p>§ Work on gaps between law enforcement and CPS, e.g. investigation timeframes.</p> <p>§ You need to go out to the field to case manage.</p>	<p>§ Child's safety first over reunification. Zero tolerance. Too many cases where there is documented evidence of serious abuse and neglect and CPS continues to leave children in those homes. *</p> <p>§ More public education and prevention resources including identification of at-risk families *</p> <p>§ Hire more educated caseworkers, increase training and increase their pay, decrease caseloads *</p> <p>§ Education of ALL professionals on substance abuse, family violence, child abuse, DV, cultural sensitivity, etc. - (teachers, doctors, judges, etc.) *</p> <p>§ Create a team approach across disciplines and agencies in making better decisions and providing services for children. *</p> <p>§ Lobby for adequate funding for services and programs to help these children, including wrap around services for families. Consolidate programs. *</p> <p>§ More early intervention and investigation resources, adequate assessments, immediate triage for children, and short time frames for resolution. *</p> <p>§ More foster care homes are needed. CPS needs to be able to recognize and respect good foster families. They also should place kids closer to where they live.*</p> <p>§ More funding for shelters for woman and children along with a CPS caseworker assigned to each shelter. *</p> <p>§ Mandated parenting classes for developmental needs of a child and expectations and it gives parents support. Helps parents to connect with other parents so they are not so isolated. Involve the community in a large scale mentoring effort to help. *</p> <p>§ Do a better job with Social Work students at the universities. Most of them want to run from CPS. We lose our best social worker students.</p> <p>§ CPS putting exceeding pressure on aging grandparents to care for the child when they are not able to do so. They try to force them into it. Once a grandparent says yes, they get little support.</p> <p>§ The worker should not change as frequently as they do on these cases. This whole system of transferring workers on this child has got to stop.</p> <p>§ I think this state undervalues their children and they have no rights. We need to get the people in the system that care about children and give them a voice.</p>
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In Harm's Way

TABLE 26

Recommendations

Question	Physicians & Medical Social Workers
<p>Systems changes to improve state response</p>	<p><u>Resources</u></p> <p>§ Improve the quality and skill level of CPS workers.</p> <p>§ Staff hospitals with CPS workers who understand medical terminology and can be the point people for the medical team and CPS system.</p> <p>§ There must be an improvement in resources for safe and adequate discharge planning of medically at risk kids. CPS must be reorganized, restructured, re-staffed and adequately staffed.</p> <p>§ I would try to have a better education of all the people involved in this. All need to know what each other is doing and what the medical staff is doing and vice versa.</p> <p>§ AHIT (After hour's investigative team) doesn't know us and we don't see the kids from AHIT. The Child Help Center is a great concept because we are able to work together better without all of the barriers in getting these kids into medical care.</p> <p><u>Policy</u></p> <p>§ Better communication between the agencies and a real collaborative effort between the systems that would be more of a multi-disciplinary approach. *</p> <p>§ Implement clear policies</p> <p>§ Evaluate reunification standards</p> <p>§ Create a new category to record families who move from unsubstantiated to unable to locate.</p> <p><u>Law changes</u></p> <p>§ Better laws to protect children not parents *</p> <p>§ Confidentiality laws must be reviewed. Physicians & hospitals must have access to information to treat children medically and adequately. *</p> <p>§ There must be clarification of custody/ guardianship statutes when abused children are hospitalized. Legal status must be guaranteed to provide medical caregivers the ability to treat status guaranteeing protection and safety. *</p> <p>§ Placing family preservation second and child safety first</p> <p>§ Not being able to conduct sibling exams is a problem. We are concerned about siblings who are never checked when a child in the home is discovered to be abused.</p> <p>§ Neglect law re-evaluated and improved</p> <p>§ Laws to mandate services and to be able to act on it when parent doesn't follow through</p> <p>§ Mandate multidisciplinary teams, more extended monitoring of cases</p> <p>§ Harsher child abuse laws, criminalize substance-exposed abuse and mandate services through pleas.</p>

	<p>§ Currently the hospital has the burden of caring for kids subject to risk of being taken out of hospital by potential abusers.</p> <p>§ Would like to see neglect criminalized. Neglect kills more children every year than shaken baby syndrome does and yet a lot of these cases result in misdemeanor status.</p> <p>§ More attention paid to drug exposed neonates. It is not illegal to expose your baby to lethal substances and it should be. If it is illegal, people may not come in for medical care and that is a concern.</p> <p>§ Mandate a better CPS tracking system.</p> <p><u>Prosecution issues</u></p> <p>§ Better investigations including the use of medical documentation of opinions.</p> <p>§ With respect to law enforcement, CPS and our work, we should compliment each other and we could make their job easier and they could make our job easier.</p> <p>§ Unfortunately, both CPS and Law Enforcement have a lot of control over what children we can examine here and evaluate here and I think it is a real big problem. If they don't bring them, we can't see them.</p> <p>§ One of our goals is to make forensic medical exams part of the protocol in assessing for abuse and neglect. Law enforcement, forensics and CPS are three parts of the wheel we all have our roles and we should compliment each other.</p>
One or two recommendations to improve safety/protection	<p>§ We need to focus on risk factors and prevention. Teaching kids life skills is helpful too. More ads in media about positive parenting, positive conflict resolution. *</p> <p>§ Welfare of children needs to be put before any political agenda. *</p> <p>§ Do not leave siblings of abused children in home.</p> <p>§ Children's safety placed above family preservation.</p> <p>§ Create centralized system to track children in system.</p> <p>§ Improve communication between all professions involved in these cases.</p> <p>§ CPS- too many legal ramifications and constraints, more power should be given to them so that they can make decisions regarding the care of the children without fear of losing their job or legal ramifications.</p>

In Harm's Way

TABLE 27

Recommendations

Question	Foster Parents	Guardians Ad Litem
<i>Systems changes to improve state response</i>	<p><u>Resources</u></p> <p>§ Improve mental health services.</p> <p>§ Higher reimbursements; more clothing money.</p> <p>§ Foster parents need more respite time each year.</p> <p>§ Foster parents need a cost of living raise.</p> <p>§ Some children need a special advocate for educational purposes (not just a surrogate parent).</p> <p>§ More CPS personnel & mental health workers need to be hired.</p> <p><u>Policy</u></p> <p>§ Improve screening of new parents. Perhaps have seasoned foster parents be mentors for newcomers.</p> <p>§ Payment process is not supportive to foster parents. Very difficult to obtain foster care reimbursement.</p> <p>§ Better communication with G.A.L. and child's attorney.</p> <p><u>Law changes</u></p> <p>§ Better laws to protect children. *</p> <p>§ Establish appropriate laws and funds to effectively accomplish protection of children, and then employ necessary personnel.</p> <p>§ Good laws already in place; the problem is enforcing them.</p> <p>§ Laws need to provide immediate removal when neglect or abuse is substantiated and drug use is present.</p> <p>§ Follow a 3-month period of noncompliance for strictly monitored education, rehab, etc</p> <p><u>Prosecution issues</u></p> <p>§ Better investigations, quicker removals.</p> <p><u>Prevention</u></p> <p>§ Change the mental health system to be more "proactive." Services need to be provided to people/kids before they are in the "system."</p>	<p><u>Resources</u></p> <p>§ CPS is in need of more case workers and more money for services.</p> <p>§ More tax money devoted to the issue.</p> <p>§ Higher salary for case workers, better education, need better than minimal adequate case workers.</p> <p><u>Policy</u></p> <p>§ Home should not be preserved at all costs, we wait too long to file dependency.</p> <p>§ Get all departments together and interacting.</p> <p>§ Case workers carry too much power</p> <p><u>Law changes</u></p> <p>§ No laws to be changed need policy changes. *</p> <p>§ Put the child first – Not the parent.</p> <p><u>Prosecution issues</u></p> <p>§ More resources, reports need to be investigated promptly and thoroughly, standards need to be changed.</p> <p>§ More aggressive approach by the system, they need to make parents more accountable for their actions, be it jail or a fine, require more than minimal parenting skills of parents.</p> <p>§ Court systems are archaic – Have meaningful hearings – no one has all the info they need – they are just cattle calls, bottle necks in court.</p> <p>§ Courts need more authority to order services.</p> <p><u>Prevention</u></p> <p>§ Parents must only possess minimal skills – they are way too low.</p>
One or two recommendations to improve safety/protection	<p>§ Provide more parenting classes and information and make it mandatory. *</p> <p>§ Everybody involved in system take responsibility to do their job. *</p> <p>§ Change laws to immediately protect the child and continue to protect them in the future.</p> <p>§ Track allegations from state to state.</p>	<p>§ Giving lip service on protecting children. We are not adequately providing services.</p> <p>§ Increase budget of CPS caseworkers, better training.</p> <p>§ More resources and training available on drug abuse, domestic violence, child abuse and private investigators available. GAL's can't do job effectively without services being available to them.</p>

§ Act on substantiated abuse/neglect cases immediately.	§ CPS needs to be held accountable for the policies they do have CPS needs to disclose everything to GAL. CPS policy manual should be available to GAL's.
§ To really look for ways to get the community involved and to reach out for the brightest potential and really try to help these kids achieve.	§ Make the parent more accountable for their actions.
§ Look at resources and pay workers, increase man power.	
§ Increase efforts to prevent abuse from occurring in the first place.	

CHAPTER SIX: ISSUES AND COMMENTARY

As the foregoing “voices” make clear, there is substantial frustration with the current system. To understand in more detail the sources of this frustration let us examine a few critical issues.

The Law in Practical Application

The following cases are examples of how our child abuse and neglect laws actually are administered in the real world. They address termination of parental rights, and babies injured by exposure to illegal drugs and alcohol. The cases help illustrate the context in which professionals in the field have formed the opinions and recommendations about the “system” we saw in the last Chapter. Importantly, they raise issues which we must resolve if we are to focus more clearly on the threshold duty of protecting children from criminal abuse and neglect.

Termination v. Reunification Efforts

In the *Minh*^[99] case, horrific facts lead to haunting questions:

On May 14, 1999, at around 7:00 p.m., Minh called police and told them that her daughter, Christine, was not breathing. When the police arrived at the home, they found Christine dead, covered with bruises and lacerations. The family told the police that on the previous afternoon, Christine had come home from a walk at a construction site with bruises and other injuries. They said that Christine was babbling and could not explain what had happened to her. Minh and one of her daughters then bathed Christine and placed her in a "prayer room." Tung came home from work around 7:00 p.m. and they began to rub oil on Christine's body and pray for her.

Early the next morning, Tung got up for work and went to the "prayer room" to check on Christine. He found Christine cold and clammy, and she was not breathing. Tung attempted cardiopulmonary resuscitation on Christine but told police that he knew she was dead at that point. The family continued

resuscitation efforts and also prayed for several hours, hoping that Christine would come back. The family finally called the police that evening after a relative convinced them to do so.

The police classified Christine's death as suspicious and the next day ADES' Child Protective Services ("CPS") division took the other three children into protective custody, citing the failure to seek medical attention and the delay in reporting Christine's death. On June 29th, Minh gave birth to a son, and CPS took him into custody immediately.

Because of the severity of Christine's injuries, Minh's and Tung's failure to seek any timely assistance, evidence of possible sexual abuse of two of the daughters, and that this was the family's seventh investigation by CPS, the original CPS plan was severance and adoption. However, when the case was transferred to another caseworker a few months later, the plan changed to family reunification. CPS offered Minh and Tung services such as counseling, psychological evaluations, parent aide services, including parenting skills and training, and domestic violence counseling.

Minh and Tung were eventually arrested and incarcerated in connection with Christine's death. CPS continued to offer Minh and Tung reunification services, including finding an Asian Buddhist psychologist to counsel Minh and Tung in jail and assigning them a parent aide. Both Minh and Tung initially agreed to participate in the services; however, they later decided not to participate upon the advice of their criminal defense attorneys. CPS informed Minh and Tung their participation in these services was extremely important to the family reunification plan, and that they would not be reunited with their children if they did not participate. But the parents refused, citing their attorneys' advice.

In April 2001 the juvenile court ordered the termination of the parent- child relationship between Minh and Tung and their four children. Minh appeals the severance as to all four children, and Tung appeals the severance as to the two daughters.

Parents have a fundamental right to raise their children as they see fit, but that right is not without limitation. Graville v. Dodge, 195 Ariz. 119, 124, ¶ 20, 985 P.2d 604, 609 (App.1999). The State has a right to protect children from abusive parents. See id. And to protect children from abusive parents, the State may require therapy and counseling for the parents. See, e.g., In re Welfare of J.W. and A.W., 415 N.W.2d 879, 883 (Minn.1987) (holding that the State may compel abusive or neglectful parents to undergo treatment).

Minh discloses profound policy flaws stemming from the sometimes competing interests found in the current law and procedures. Certainly the court is correct, according to the issue that it fundamentally decided, that a parent cannot hide behind the Fifth Amendment to refuse reunification services [cheap oakley sunglasses](#) [louis vuitton outlet](#) [michael kors outlet](#) [beats by dre cheap jordan 6](#) [Legend Blue 11s cheap oakley sunglasses](#) [jordan retro 6 lebron 12 Nike kd vii michael kors uk legend blue 11s legend blue 11s jordan retro 6 louis vuitton outlet black infrared 6s black infrared 6s jordan 11 legend blue black toe 14s black infrared 6s Legend Blue 11s ferrari 14s jordan retro 6 coach outlet online coach outlet online michael kors outlet jordan 11 legend blue Nike kd vii Easy Money coach outlet online jordan retro 11 Legend Blue 11s legend blue 11s jordan retro 6 Legend Blue 11s jordan retro 11 black infrared 6s michael kors outlet lebron 12 black toe 14s black toe 14s legend blue 11s michael kors outlet jordan retro 11 legend blue 11s black infrared 6s michael kors outlet jordan 6 michael kors outlet black infrared 6s jordan 6 coach outlet online coach factory outlet lebron 12 Nike kd vii Easy Money lebron 11 louis vuitton outlet michael kors outlet legend blue 11s michael kors outlet lebron 12 cheap jordan shoes legend blue 11s legend blue 11s nike kd vii easy money jordan 6 Legend Blue 11s black infrared 6s legend blue 11s Legend Blue 11s michael kors outlet legend blue 11s black infrared 6s jordan 11 legend blue coach outlet online beats by dre cheap michael kors outlet jordan 6 black infrared coach outlet online jordan retro 6 coach outlet online michael kors outlet louis vuitton outlet jordan 6 lebron 12 coach outlet online legend blue 11s black infrared 6s coach factory outlet black infrared 6s black infrared 6s beats by dre cheap jordan retro 11 black infrared 6s jordan 6 black infrared jordan 11 Legend Blue beats by dre cheap black toe 14s legend blue 11s black infrared 6s black infrared 6s legend blue 11s ferrari 14s michael kors outlet black infrared 6s jordan 6 black infrared legend blue 11s legend blue 11s legend blue 11s legend blue 11s jordan retro 11 michael kors outlet cheap jordans coach factory outlet lebron 12 louis vuitton outlet jordan 6 legend blue 11s black infrared 6s lebron 12 coach outlet online nike kd vii easy money lebron 12 Lebron 11 legend blue 11s coach outlet online michael kors uk jordan 11 beats by dre cheap black infrared 6s jordan 11 legend blue coach outlet online jordan 6 jordan 6 louis vuitton outlet legend blue 11s black infrared 6s black](#)

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EXHIBIT D

David Frodsham DUI
Indictment

FILED

2015 APR 16 AM 11:45

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT
BY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

STATE OF ARIZONA,

Plaintiff,

vs.

DAVID WAYNE FRODSHAM,

Defendant.

GRAND JURY NO. 15- 0108

CASE NO. CR2015- 00234

INDICTMENT

The Grand Jurors of the County of Cochise, in the name of the State of Arizona,

and by its authority accuse:

DAVID WAYNE FRODSHAM

and charge that in Cochise County:

COUNT 1

On or about January 6, 2015, DAVID WAYNE FRODSHAM committed aggravated driving by driving or being in actual physical control of a motor vehicle while he had an alcohol concentration of .08% or more within two hours of driving or being in actual physical control of the vehicle, and the alcohol concentration resulted from alcohol consumed either before or while he was driving or was in actual physical control of the vehicle, while there was a person under fifteen years of age in the vehicle, to wit: D.S., in violation of A.R.S. §§ 28-1383(A)(3)(L), 28-1381(A)(2), 28-1384, 28-1385, 13-105, 13-701, 13-702, 13-703, 13-708(C), 13-801, and 13-902(B)(2), a class 6 felony.

COUNT 2

On or about January 6, 2015, DAVID WAYNE FRODSHAM committed aggravated driving by driving or being in actual physical control of a motor vehicle while he had an alcohol concentration of .08% or more within two hours of driving or being in actual physical control of the vehicle, and the alcohol concentration resulted from alcohol consumed either before or while he was driving or was in actual physical control of the vehicle, while there was a person under fifteen years of age in the vehicle, to wit: J.V., in violation of A.R.S. §§ 28-1383(A)(3)(L), 28-1381(A)(2), 28-1384, 28-1385, 13-105, 13-701, 13-702, 13-703, 13-708(C), 13-801, and 13-902(B)(2), a class 6 felony.

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COUNT 3

On or about January 6, 2015, **DAVID WAYNE FRODSHAM** committed domestic violence, having the care or custody of a child, recklessly permitted the child to be placed in a situation where the person or health of the child was endangered, under circumstances likely to produce death or serious physical injury, to wit; committed DUI with D.S. in the vehicle, in violation of A.R.S. §§ 13-3623(A)(2), 13-3601, et.seq., 13-105, 13-701, 13-702, and 13-801, a class 3 felony.

COUNT 4

On or about January 6, 2015, **DAVID WAYNE FRODSHAM** committed domestic violence, having the care or custody of a child, recklessly permitted the child to be placed in a situation where the person or health of the child was endangered, under circumstances likely to produce death or serious physical injury, to wit; committed DUI with J.V. in the vehicle, in violation of A.R.S. §§ 13-3623(A)(2), 13-3601, et.seq., 13-105, 13-701, 13-702, and 13-801, a class 3 felony.

DATED this 16th day of April, 2015.

COCHISE COUNTY ATTORNEY

True Bill

BY:


JAMES GLANVILLE
Deputy County Attorney


Foreman of the Grand Jury

/s/

CR201500234

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Justice Court
2015-04-17
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DAILY REGISTER OF ACTIONS INDEX

PAGE: 1
CASE: J-0205-CR-0020150600
ST OF AZ VS FRODSHAM DAVID WAYNE
PARTY: D - 001 FRODSHAM DAVIDS WAYNE

I HEREBY CERTIFY THAT THE ENCLOSED ITEMS CONSTITUTE A TRUE AND COMPLETE RECORD OF THE PROCEEDINGS HELD IN THE ABOVE ENTITLED CASE. THE FOLLOWING ITEMS ARE INCLUDED:

Number of Hours	DATE	SEQ	EVENT	RESULT	RECEIPT #	AMOUNT
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04-15-2015	01	COMPLAINT FILED-PROSECUTOR				\$0.00
04-15-2015	02	COMMENTS	PER CA HOLD OFF ISSUING SUMMONS	MM		\$0.00
04-16-2015	01	SUPERVENING INDICTMENT RECD				\$0.00
04-17-2015	01	COMMENTS	EXAMED INDICTMENT, CONDITIONS OF RELEASE, AND COMPLAINT TO DIV FIVE SUPERIOR COURT	HP		\$0.00
04-17-2015	02	ORIG. FILE TO SUPERIOR COURT				\$0.00
10-14-2015	01	CAL: TRL RECORD PURGE- 6 MONTH	Calendar Posting on 04-17-2015			\$0.00

[Handwritten signature]

TIMOTHY B. DICKERSON
JUSTICE OF THE PEACE

APR 17 2015

FILED

2015 APR 16 AM 11:59

COCHISE COUNTY
JUSTICE COURT
SIERRA VISTA, ARIZONA

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 IN AND FOR THE COUNTY OF COCHISE

3 STATE OF ARIZONA,

4 Plaintiff,

5 vs.

6 DAVID WAYNE FRODSHAM,

7 Defendant.
8

GRAND JURY NO. 15- 0108

CASE NO. CR2015- 00234

JP5; CASE CR
NOTICE OF SUPERVENING INDICTMENT
AND MOTION AND ORDER QUASHING
JUSTICE COURT WARRANT OR
SUMMONS AND ORDER TRANSFERRING
FILE TO SUPERIOR COURT

9 COMES NOW BRIAN M. McINTYRE, Cochise County Attorney, and moves
10 that the file in the above-entitled action be transferred to the Superior Court of Cochise County,
Arizona, together with any bond or security posted, for the following reason:

11 That an indictment was returned against the above Defendant(s) in the above-
12 entitled case on the 16th day of April, 2015, by the Cochise County Grand Jury.

13 BRIAN M. McINTYRE, Cochise County Attorney, further moves that the
14 existing Justice Court Warrant or Summons be quashed for the reason that a Grand Jury
Indictment and Warrant or Summons have been issued in the same case.

15 DATED this 16th day of April, 2015.

16 COCHISE COUNTY ATTORNEY

17 By: 

18 Deputy County Attorney

19 ORDER

20 It is hereby ordered that the Justice Court Warrant or Summons in the above-
21 entitled case be quashed, and the file together with any bond or security posted, be transferred to
22 the Superior Court of Cochise County, Arizona.

23 DATED this 17 day of April, 2015. 

24 JUSTICE OF THE PEACE, PRECINCT NO. 5
25

FILED

JUSTICE COURT PRECINCT No. 5

2015 APR 16 PM 2:09

State of Arizona v. **DAVID WAYNE FRODSHAM**

COCHISE COUNTY
JUSTICE COURT 5
SIERRA VISTA, ARIZONA
CLERK *[Signature]*

Check One

- ☐ 48 Hour Complaint
☐ Issue Summons
☒ Hold off issuing Summons
☐ Issue Warrant ☐ NCIC ☐ ACIC \$_____ Requested Bond Amount
☐ **PURSUANT TO A.R.S. § 13-3961(A)(5)(b), NO BOND IS TO BE SET**
☐ In custody on other charges

Statement of Factual Basis for Issuance of Warrant:

DEFENDANT:

NAME: DAVID WAYNE FRODSHAM

Address: 1274 Sunflower Way, Sierra Vista, AZ 85635

Race:	<u>Cauc.</u>	Sex:	<u>Male</u>	DOB:	<u>8/23/56</u>
Ht.	<u>6' 0"</u>	Wt:	<u>255 lbs.</u>	Hair:	<u>Bald</u>
Eyes:	<u>Hazel</u>	SSN:	<u>533-62-3586</u>	Occupation	_____

Work Address:

Phone Number(s): 520-459-2796

Additional information that will assist in locating the defendant:

Law Enforcement Agency: **SVPD**

DR# 15-678

FILED

2015 APR 15 PM 1:34

COCHISE COUNTY
JUSTICE COURT 5
TULSA VISTA, ARIZONA
CLERK

IN THE JUSTICE COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE, PRECINCT No. 5

STATE OF ARIZONA,

Plaintiff,

vs.

DAVID WAYNE FRODSHAM,

Defendant(s).

NO. CR

20150600

COMPLAINT

The complainant herein, JAMES GLANVILLE, Deputy County Attorney, pursuant to Rule 2.3, Rules of Criminal Procedure, on information and belief complains against:

DAVID WAYNE FRODSHAM

and charges that in Precinct No.5, Cochise County, Arizona:

COUNT 1

On or about January 6, 2015, **DAVID WAYNE FRODSHAM** committed aggravated driving by driving or being in actual physical control of a motor vehicle while he had an alcohol concentration of .08% or more within two hours of driving or being in actual physical control of the vehicle, and the alcohol concentration resulted from alcohol consumed either before or while he was driving or was in actual physical control of the vehicle, while there was a person under fifteen years of age in the vehicle, to wit: D.S., in violation of A.R.S. §§ 28-1383(A)(3)(L), 28-1381(A)(2), 28-1384, 28-1385, 13-105, 13-701, 13-702, 13-703, 13-708(C), 13-801, and 13-902(B)(2), a class 6 felony.

COUNT 2

On or about January 6, 2015, **DAVID WAYNE FRODSHAM** committed aggravated driving by driving or being in actual physical control of a motor vehicle while he had an alcohol concentration of .08% or more within two hours of driving or being in actual physical control of the vehicle, and the alcohol concentration resulted from alcohol consumed either before or while he was driving or was in actual physical control of the vehicle, while there was a person under fifteen years of age in the vehicle, to wit: J.V., in violation of A.R.S. §§ 28-1383(A)(3)(L), 28-1381(A)(2), 28-1384, 28-1385, 13-105, 13-701, 13-702, 13-703, 13-708(C), 13-801, and 13-902(B)(2), a class 6 felony.

FILED

2015 APR 15 PM 1:34

JUSTICE COURT PRECINCT No. 5

COCHISE COUNTY
JUSTICE COURT 5
SIERRA VISTA, ARIZONAState of Arizona v. DAVID WAYNE FRODSHAM

Check One

- ☐ 48 Hour Complaint
☐ Issue Summons
☒ Hold off issuing Summons
☐ Issue Warrant ☐ NCIC ☐ ACIC \$ _____ Requested Bond Amount
☐ PURSUANT TO A.R.S. § 13-3961(A)(5)(b), NO BOND IS TO BE SET
☐ In custody on other charges

Statement of Factual Basis for Issuance of Warrant:

DEFENDANT:

NAME: DAVID WAYNE FRODSHAM

Address: 1274 Sunflower Way, Sierra Vista, AZ 85635

Race:	Cauc.	Sex:	Male	DOB:	8/23/56
Ht.	6' 0"	Wt:	255 lbs.	Hair:	Bald
Eyes:	Hazel	SSN:	533-62-3586	Occupation	

Work Address:

Phone Number(s): 520-459-2796

Additional information that will assist in locating the defendant:

Law Enforcement Agency: SVPD

DR# 15-678

**COCHISE COUNTY
ATTORNEY'S OFFICE**

Public Programs & Personal Services
www.cochise.org
JUSTICE COURT 5
SIERRA VISTA, ARIZONA

CLERK

BRIAN M. McINTYRE
COCHISE COUNTY ATTORNEY

To: **JUSTICE COURT
PRECINCT #5**

From: Aileen Contapay
Admin Assistant

Fax: 520-439-9106

Date: 4/15/15

Pages: 4, including cover sheet

Re: **State v. David Wayne Frousham**

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ FYI

Attached for filing is a Complaint. I will send the original via interoffice mail.

Thank you!!

Information contained in this facsimile message is privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you receive this communication in error, please notify us by telephone. Thank you.

If you have any problems receiving transmission, call (520) 432-8700.

Main Office
150 Quality Hill Rd.
P.O. Drawer CA
Bisbee, AZ 85803
Telephone: (520) 432-8700

Juvenile Department
100 Colonia de Salud, Ste. 104
Sierra Vista, AZ 85635
Telephone: (520) 803-3180

Civil Fax: (520) 432-8778
Drug Unit Fax: (520) 432-2487
General Crimes Fax: (520) 432-4208
Juvenile Fax: (520) 417-0895
Misdemeanor Fax: (520) 432-8729
Victim Witness: (520) 432-8777
Attorney@cochise.az.gov

EXHIBIT E

DCS Records of Abuse

Concern ID 1901
 Concern Type: Licensing Issue
 LicenseeID 5286
 Licensee Firstname David
 Licensee Lastname Frodsham

Progress Note Date	Comments	Time	Entered by
03/22/2007	<p>FINAL INQUIRY REPORT received from licensing worker, Adrienne Kuntz. She found that the foster parents admitted to placing the child in handcuffs for one night because there was no intervention or assistance. The child, Ryan, had gotten out of his room one night and cut the foster parent's older daughter's hair while she was sleeping. The foster parents were told that they were never to use handcuffs with a foster children and this was an inappropriate technique. An immediate CFT was held to discuss the problems in the home. Ryan's therapist was there and changed Ryan's medication to see if that would solve his insomnia. The Frodshams are in the process of adopting Ryan and his two siblings and they are committed to the care of the children. In addition, the Frodshams have a new adoption worker and will have more success in obtaining services for Ryan. The Frodshams did not hide the fact they had used the handcuffs and notified the agency immediately. There is no corrective action other than policy review and stern warning this is inappropriate behavior and against policy. A letter is being sent to the foster parents with the concerns noted regarding inappropriate restraint. 01/12/2007: LICENSING CONCERN: Today, 01-11-07, it was reported that foster child, Ryan, gets up in the middle of the night and he wanders throughout his foster home. Apparently, when Ryan was roaming the house in the middle of the night he found scissors and cut the foster parents older daughters hair off while she was sleeping. The foster mother was worried Ryan might hurt someone in the home so she handcuffed him to his bed at night until until she was able to put an alarm in the home. The foster mother told her therapist, Carol Galanos, what she did. The foster mother was told she could not use handcuffs on any foster child. The licensing worker found out what happened and she spoke with the foster mother, too. Ryan's case manager is Noemi Ochoa and she can be contacted at 520-432-5652. The case manager has been notified of this information. Submitted licensing concern to agency for further investigation.</p>	14:12:00	Bonnie Richter
01/16/2007	<p>01/12/2007: LICENSING CONCERN: Today, 01-11-07, it was reported that foster child, Ryan, gets up in the middle of the night and he wanders throughout his foster home. Apparently, when Ryan was roaming the house in the middle of the night he found scissors and cut the foster parents older daughters hair off while she was sleeping. The foster mother was worried Ryan might hurt someone in the home so she handcuffed him to his bed at night until until she was able to put an alarm in the home. The foster mother told her therapist, Carol Galanos, what she did. The foster mother was told she could not use handcuffs on any foster child. The licensing worker found out what happened and she spoke with the foster mother, too. Ryan's case manager is Noemi Ochoa and she can be contacted at 520-432-5652. The case manager has been notified of this information. Submitted licensing concern to agency for further investigation.</p>	08:12:00	Bonnie Richter

Concern ID 349403
Concern Type: Licensing Issue
LicenseeID 5286
Licensee Firstname David
Licensee Lastname Frodsham

Progress Note Date	Comments	Time	Entered by
01/22/2009	<p>CLOSED LICENSING CONCERN OF 07/18/07 WITH A CORRECTIVE ACTION PLAN: The same CAP as the one listed above. Both licensing concerns was combined in the CAP submitted by Linda Tucker-Church. 7/18/07 LICENSING CONCERN: Regarding David and Barbara Frodsham, [REDACTED]. Ryan (7), Trevor (5), and Nicholas (3) are court wards placed with foster parents David and Barbara Frodsham. [REDACTED]</p> <p>[REDACTED] The source also indicated that [REDACTED], is in the home along with another grandchild, [REDACTED]. On 7/5/07, [REDACTED] and [REDACTED] were overheard talking. They indicated that Trevor and Ryan were acting up at a medical appointment. The foster mother then slapped Trevor on the face and put hot sauce in his mouth. It is unknown if he was injured. She then sent both Trevor and Ryan to bed that night without dinner. The foster mother would also pick up Trevor by his hair before he got it cut. The case manager for the children is Noemi Ochoa. Her phone number is 520-432-5652 or 520-432-4337. Notification of licensing concern sent to Carrie Zerafa via email.</p>	10:35:00	George Stevens

EXHIBIT F

David Frodsham sentencing
order, plea agreement, and
indictment for child
pornography and abuse charges

OFFICE DISTRIBUTION

FINANCE Kathy Chavez
COUNTY ATTY/Daniel Akers, Deputy County Attorney
COUNTY ATTY/Sara Ransom, Deputy County Attorney
DEFENSE ATTY/Joseph DiRoberto, Esquire
ARIZONA DEPT OF CORRECTIONS (certified)
COCHISE COUNTY JAIL (certified)
ADULT PROBATION DEPARTMENT
DONNA HARRIS

**SUPERIOR COURT OF ARIZONA
COUNTY OF COCHISE**

Date August 24, 2016

2016 AUG 30 PM 3: 38

CLERK OF SUPERIOR COURT
DEPUTY

CASE: STATE OF ARIZONA

vs.

DAVID WAYNE FRODSHAM
Date of Birth: 08/23/1956

SENTENCE OF IMPRISONMENT

CASE NO: CR201600419

JUDGE: **HON. WALLACE R. HOGGATT**
DIVISION: **THREE**
COURT REPORTER: **PENNY NYANDER**
ADDRESS & PHONE

MARY ELLEN DUNLAP, CLERK

By Susan Underwood (08/29/16), Deputy Clerk
Docketed by

2:07 p.m. State represented by Sara Ransom, Deputy County Attorney
Defendant in custody, present in person, and by Joseph DiRoberto, Esquire

THE RECORD MAY SHOW the Court called this case with the Defendant's case CR201600521 (see separate sentencing minute entry.)

THE RECORD MAY FURTHER SHOW that Elizabeth Alstatt, DCS case worker and victim representative, was present.

The matter came before the Court this date for sentencing.

The Court addressed the Defendant's Notice of Objections to the Pre-Sentence Reports filed in this case and the Defendant's case CR201600521.

IT IS ORDERED granting Defendant's Notice of Objections to the Pre-Sentence Reports filed in this case and the Defendant's case CR201600521.

THE RECORD MAY SHOW the Court signed both of the forms of Order, one for each of the Defendant's cases, in Open Court this date.

Upon inquiry by the Court, Ms. Ransom advised that sentencing could go forward in both of the Defendant's cases after proceeding with an amended plea agreement.

The Court stated the amendments to the plea agreements on the record.

No. CR201600419 STATE vs DAVID WAYNE FRODSHAM

Mr. DiRoberto advised the Court that the Defendant was in agreement with the amended plea agreements. He requested that the minute entries reflect that the amendment show the sentences that the Defendant shall serve are at flat time, not calendar year.

THE RECORD MAY SHOW an amended plea agreement was filed in Open Court in each of the Defendant's two cases.

Mr. DiRoberto withdrew the Defendant's previous pleas of guilty from the plea proceeding on June 13, 2016.

The Court proceeded with the amended plea agreements in this case and in Defendant's case CR201600521.

The Court confirmed the Defendant's identity and date of birth, as stated on the record.

The Court allowed the Defendant to withdraw his previous pleas of guilty to the three charges, pursuant to Rule 17.5 of the Criminal Rules of Procedure.

THE RECORD MAY SHOW the Court corrected the plea agreement to show the correct deadline and the Court initialed the corrections in Open Court.

The Defendant pled guilty to the three charges contained within the amended plea agreements.

Mr. DiRoberto presented a factual basis for the Defendant's pleas of guilty.

Ms. Ransom presented additional factual basis. She also advised the Court that the DCS case worker did not object to the factual basis.

The Court advised the Defendant of the conditions of the amended plea agreements.

The Defendant acknowledged his understanding of the amended plea agreements.

The Court addressed the corrections to the pre-sentence report.

IT IS ORDERED granting the State's request to correct the pre-sentence report in Defendant's case CR201600419, previously placed under seal, and as stated on the record.

Mr. DiRoberto requested the Court physically black-out the specific information he requested to be stricken in the presentence report.

Ms. Ransom submitted the issue to the Court's discretion.

The Court requested that Mr. DiRoberto take a copy of the two pre-sentence reports and black out/white out the offending, incorrect statement and present the redacted version of each of the pre-sentence reports to Ms. Ransom. The Court also requested that Mr. DiRoberto provide a form of order with each of the redacted presentence reports. If there is no objection by the State, the Court will sign the orders.

Three	August 24, 2016	HON. WALLACE R. HOGGATT	Susan Underwood
Div	Date	Superior Court Judge	Deputy Clerk

No. CR201600419 STATE vs DAVID WAYNE FRODSHAM

Mr. DiRoberto advised the Court that he would get the redacted pre-sentence reports and forms of order completed and filed right away.

The Court proceeded to sentencing at this time.

The Court has received and read the Presentence Report, as changed this date and stated on the record. The Court is aware of the stipulations contained in the amended Plea Agreements this date, and is prepared to impose sentence in accordance with the stipulations made therein.

Ms. Ransom submitted the matter on behalf of the State. She also advised the Court that the DCS case worker would like to address the Court.

Ms. Alstatt addressed the Court on behalf of the victim.

Upon request by Ms. Ransom, the Court inquired of Ms. Alstatt as to restitution in this matter.

The Court advised that pursuant to the amended plea agreements, the victim has forty-five (45) days from this date to submit a claim for restitution, along with any and all supporting documentation.

Mr. DiRoberto addressed the Court on behalf of the Defendant.

At 3:29 p.m., the Court called a recess.

* * * * *

At 3:45 p.m., the Court reconvened this matter back on the record with the presence of counsel, the Defendant, and the parties of record.

The Defendant was given an opportunity to address the Court and did so on his own behalf.

The Court addressed the Defendant directly.

Pursuant to A.R.S. Section 13-607, the Court finds as follows:

[XX] **WAIVER OF TRIAL** The Defendant knowingly, intelligently and voluntarily waived his right to a jury trial, his right to confront and cross-examine witnesses, his right to testify or remain silent and his right to present evidence and call his own witnesses after having been advised of these rights. The determinations of guilt were based upon pleas of GUILTY.

Three	August 24, 2016	HON. WALLACE R. HOGGATT	Susan Underwood
Div	Date	Superior Court Judge	Deputy Clerk

No. CR201600419 STATE vs DAVID WAYNE FRODSHAM

The Court having considered the facts and circumstances, and there being no legal cause to delay the imposition of disposition,

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of the following crimes, that upon due consideration of the facts, law and circumstances relevant here, the Court FINDS that as to Counts 1 and 2 of the amended Plea Agreement, a sentence of probation is not appropriate and a sentence of imprisonment with the Department of Corrections is appropriate.

THE COURT FURTHER FINDS that there are circumstances sufficiently substantial to call for a term as indicated on the following page. These circumstances are stated by the Court on the record.

AS PUNISHMENT, IT IS ORDERED that the Defendant is sentenced to a term of imprisonment and is committed to the Arizona Department of Corrections as follows:

Three Div	August 24, 2016 Date	HON. WALLACE R. HOGGATT Superior Court Judge	Susan Underwood Deputy Clerk
--------------	-------------------------	---	---------------------------------

No. **CR201600419** **STATE vs DAVID WAYNE FRODSHAM**

OFFENSE: **Intentionally or knowingly committed sexual conduct with a minor under the age of 18 years when Defendant was in a position of trust with the minor, to wit: Defendant engaged in sexual intercourse or oral sexual contact with R.F., Defendant's sixteen (16) old adopted or foster son, the first time**

FELONY CLASS: **Class 2 felony and an amendment to Count 3 of the Indictment in CR201600419**

IN VIOLATION OF A.R.S. §§: **13-1405(A)(B), 13-1401, 13-105, 13-701, 13-702, 13-801, 13-901, and 13-902**

DATE OF OFFENSE: **From or about October 2015 through April 21, 2016**

SENTENCE: **The Defendant shall be committed to the Arizona Department of Corrections for the SOMEWHAT AGGRAVATED term of EIGHT and ONE HALF (8.5) years.**

MINIMUM	PRESUMPTIVE	xx SOMEWHAT AGGRAVATED
xx NONDANGEROUS	DANGEROUS CRIME UNDER A.R.S. §13-704	
xx NONREPETITIVE	REPETITIVE	PARTLY MITIGATED

This sentence is to date from **this date, August 24, 2016**. The Defendant is entitled to receive and is hereby granted credit for **ONE HUNDRED AND TWENTY FIVE (125) days** served prior to sentencing.

This is a flat-time sentence, pursuant to A.R.S. §13-1405(B).

This sentence shall be served prior to the sentence imposed in Count 2 of the Plea Agreement (see following page).

THE RECORD MAY SHOW under the authority of A.R.S. §13-603(K), community supervision is waived because the defendant will be serving a probation tail imposed in Defendant's case CR201600521.

Three Div	August 24, 2016 Date	HON. WALLACE R. HOGGATT Superior Court Judge	Susan Underwood Deputy Clerk
--------------	-------------------------	---	---------------------------------

No. CR201600419 STATE vs DAVID WAYNE FRODSHAM

OFFENSE: Committed sexual conduct with a minor under the age of 18 years when Defendant was in a position of trust with the minor, to wit: Defendant and a third party adult engaged in oral sexual contact with R.F., Defendant's sixteen (16) old adopted or foster son, the first time

FELONY CLASS: Class 2 felony, and an amendment to Count 4 of the Indictment in CR201600419

IN VIOLATION OF A.R.S. §§: 13-1405(A)(B), 13-1401, 13-105, 13-701, 13-702, 13-801, 13-901, and 13-902

DATE OF OFFENSE: From or about October 2015 through April 21, 2016

SENTENCE: The Defendant shall be committed to the Arizona Department of Corrections for the SOMEWHAT AGGRAVATED term of EIGHT and ONE HALF (8.5) years.

MINIMUM	PRESUMPTIVE	xx SOMEWHAT AGGRAVATED
xx NONDANGEROUS	DANGEROUS CRIME UNDER A.R.S. §13-704	
xx NONREPETITIVE	REPETITIVE	PARTLY MITIGATED

This sentence is to date from **this date, August 24, 2016**. The Defendant is entitled to receive and is hereby granted credit for **zero (0) days** served prior to sentencing.

This is a flat-time sentence, pursuant to A.R.S. §13-1405(B).

This sentence shall be served consecutively to the sentence imposed on Count 1 of the Plea Agreement (see previous page). Defendant shall complete the sentence imposed on Count 1 before beginning to serve this sentence.

THE RECORD MAY SHOW under the authority of A.R.S. §13-603(K), community supervision is waived because the defendant will be serving a probation tail in case CR201600521.

No. CR201600419 STATE vs DAVID WAYNE FRODSHAM

As required by law by virtue of these convictions, the Defendant is obligated for the remainder of his natural life to register as a sex offender, pursuant to A.R.S. §13-3821.

ORDERED confirming Counts 1, 2, 5 and 6 of the Indictment are dismissed with prejudice.

With no objection by counsel, the Defendant's fine and surcharge in this matter shall be reflected in the Financial Judgment and Order imposed in the Defendant's case CR201600521.

The Court grants the victim forty five (45) days from this date within which to submit a claim to the County Attorney's Office for restitution, along with any supporting documentation. The County Attorney's Office shall promptly provide copies of any claim for restitution to Mr. DiRoberto. Within sixty (60) days of this date, counsel must submit a stipulation concerning restitution or request a restitution hearing, otherwise the amount of restitution shall be \$0.00.

ORDERED Defendant shall provide a DNA sample pursuant to A.R.S. §13-610.

The Court advised the Defendant of his rights of review and written notice of those rights were provided to the Defendant.

ORDERED the Defendant shall remain in the custody of the Cochise County Sheriff. The Sheriff shall deliver the Defendant to the custody of the Department of Corrections and the Department of Corrections shall take the Defendant into custody to carry out the term of imprisonment set forth herein.

ORDERED the Clerk of the Superior Court shall remit to the Department of Corrections a copy of this Order, together with all pre-sentence reports, medical reports and psychological reports relating to the Defendant and involving this cause.

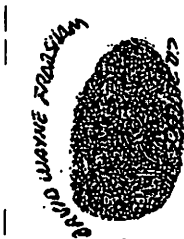
The Court advised the Defendant of his rights of review and written notice of those rights were provided to the Defendant.

FILED: Notice of Rights of Review After Conviction signed by the Defendant and copy provided to the Defendant.

LET THE RECORD REFLECT that the Defendant's right index fingerprint is permanently affixed to this sentencing order.

At 4:08 p.m., hearing concluded.

DATED this 30th day of AUGUST, 2016.




WALLACE R. HOGGATT, Superior Court Judge

EXHIBIT G

Randall Bischak Federal and
State Indictments

✓ FILED _____ LODGED

_____ RECEIVED _____ COPY

2016 MAY 18 P 4:17

CLERK US DISTRICT COURT
DISTRICT OF ARIZONA

1 JOHN S. LEONARDO
2 United States Attorney
3 District of Arizona
4 Carin C. Duryee
5 Assistant U.S. Attorney
6 United States Courthouse
7 405 W. Congress Street, Suite 4800
8 Tucson, Arizona 85701
9 Telephone: 520-620-7300
10 Email: carin.duryee@usdoj.gov
11 Attorneys for Plaintiff

12 IN THE UNITED STATES DISTRICT COURT

13 FOR THE DISTRICT OF ARIZONA

VICTIM CASE

14 United States of America,

15 Plaintiff,

16 vs.

17 RANDALL ALEXANDER BISCHAK,

18 Defendant.

INDICTMENT

Violations:

18 USC § 2251(a) and (e)
(Production of Child Pornography)
Counts 1-3

18 USC §§ 2252(a)(2) and (b)(1)
(Distribution of Child Pornography)
Counts 4-6

18 USC §§ 2252A(a)(5)(B) and (b)(2)
(Possession of Child Pornography)
Count 7

19 THE GRAND JURY CHARGES:

CR 16 - 1004 TUC RM(DTF)
COUNT ONE

PRODUCTION OF CHILD PORNOGRAPHY

20 On or about January 23, 2016, in Sierra Vista, in the District of Arizona, the
21 defendant, RANDALL ALEXANDER BISCHAK, did employ, use, persuade, induce,
22 entice, and coerce a minor male to engage in sexually explicit conduct for the purpose of
23 producing a visual depiction of such conduct, to wit: a video identified as
24 "20160123_193830.mp4", which visual depiction was intended to be transported in
25
26
27
28

1 interstate commerce, was produced using materials that had been mailed, shipped, and
2 transported in interstate commerce, and was transported in interstate commerce.

3 All in violation of Title 18, United States Code, Section 2251(a).

4
5 **COUNT TWO**

6 **PRODUCTION OF CHILD PORNOGRAPHY**

7 On or about February 20, 2016, in Sierra Vista, in the District of Arizona, the
8 defendant, RANDALL ALEXANDER BISCHAK, did employ, use, persuade, induce,
9 entice, and coerce a minor male to engage in sexually explicit conduct for the purpose of
10 producing a visual depiction of such conduct, to wit: a video identified as "VID-
11 20160220-WA0006.mp4", which visual depiction was intended to be transported in
12 interstate commerce, was produced using materials that had been mailed, shipped, and
13 transported in interstate commerce, and was transported in interstate commerce.
14

15 All in violation of Title 18, United States Code, Section 2251(a).

16
17 **COUNT THREE**

18 **PRODUCTION OF CHILD PORNOGRAPHY**

19
20 On or about March 15, 2016, in Sierra Vista, in the District of Arizona, the
21 defendant, RANDALL ALEXANDER BISCHAK, did employ, use, persuade, induce,
22 entice, and coerce a minor male to engage in sexually explicit conduct for the purpose of
23 producing a visual depiction of such conduct, to wit: a video identified as "ad89fe5f-
24 4f54-4de8-9c81-96e2421b2cfb.mp4", which visual depiction was intended to be
25 transported in interstate commerce, was produced using materials that had been mailed,
26

1 shipped, and transported in interstate commerce, and was transported in interstate
2 commerce.

3 All in violation of Title 18, United States Code, Section 2251(a).
4

5 **COUNT FOUR**

6 **DISTRIBUTION OF CHILD PORNOGRAPHY**

7 On or about December 8, 2015, in Sierra Vista, in the District of Arizona,
8 RANDALL ALEXANDER BISCHAK, using any means or facility of interstate or
9 foreign commerce, did knowingly distribute child pornography, that is, visual depictions,
10 the production of which involved the use of minors engaging in sexually explicit conduct,
11 as defined in Title 18, United States Code, Section 2256(2), and which depicted such
12 conduct, which had been shipped and transported in interstate or foreign commerce by
13 means of computer, or otherwise, including, but not limited to, a video file entitled
14 "IMG_1014."
15
16
17

18 All in violation of Title 18, United States Code, Sections 2252(a)(2) and (b)(1).
19

20 **COUNT FIVE**

21 **DISTRIBUTION OF CHILD PORNOGRAPHY**

22 On or about February 17, 2016, in Sierra Vista, in the District of Arizona,
23 RANDALL ALEXANDER BISCHAK, using any means or facility of interstate or
24 foreign commerce, did knowingly distribute child pornography, that is, visual depictions,
25 the production of which involved the use of minors engaging in sexually explicit conduct,
26
27

1 as defined in Title 18, United States Code, Section 2256(2), and which depicted such
2 conduct, which had been shipped and transported in interstate or foreign commerce by
3 means of computer, or otherwise, including, but not limited to, the following video files:

4 "VID-20160217-WA0000.mp4" and
5 "VID-20160217-WA0001.mp4"

6 All in violation of Title 18, United States Code, Sections 2252(a)(2) and (b)(1).
7

8 **COUNT SIX**

9 **DISTRIBUTION OF CHILD PORNOGRAPHY**

10 On or about February 20, 2016, in Sierra Vista, in the District of Arizona,
11 RANDALL ALEXANDER BISCHAK, using any means or facility of interstate or
12 foreign commerce, did knowingly distribute child pornography, that is, visual depictions,
13 the production of which involved the use of minors engaging in sexually explicit conduct,
14 as defined in Title 18, United States Code, Section 2256(2), and which depicted such
15 conduct, which had been shipped and transported in interstate or foreign commerce by
16 means of computer, or otherwise, including, but not limited to, the following video files:
17

18 "VID-20160220-WA0006.mp4"
19

20 All in violation of Title 18, United States Code, Sections 2252(a)(2) and (b)(1).
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26 **COUNT SEVEN**

POSSESSION OF CHILD PORNOGRAPHY

On or about April 14, 2016, in Sierra Vista, in the District of Arizona, RANDALL ALEXANDER BISCHAK, did knowingly possess child pornography, that is, visual depictions, the production of which involved the use of minors, including pre-pubescent minors, engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256(2), and which depicted such conduct, that had been mailed, shipped and transported in interstate and foreign commerce by any means, including computer, and which was produced using materials which had been mailed and shipped and transported in interstate and foreign commerce; that is, knowingly possessed on a Samsung CDMA SM-N910V Galaxy Note 4 (IMSI 311480176948232), images of child pornography, including, but not limited to, the following files:

"102204c0-be4d-4e05-a3b2-8506c70fb2ef.mp4"
"7135edcb-f521-4ee4-b76f-87eca7c69edb.mp4" and
"1750dcc6-996f-4c5a-af93-ef6227f0bbf4.mp4"

All in violation of Title 18, United States Code, Sections 2252A(a)(5)(B) and (b)(2).

A TRUE BILL

/s/

Presiding Juror

JOHN S. LEONARDO
United States Attorney
District of Arizona

/s/

Carin C. Duryee
Assistant U.S. Attorney

May 18, 2016

REDACTED FOR
PUBLIC DISCLOSURE

FILED

2016 NOV 17 PM 1:45

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT

IN AND FOR THE COUNTY OF COCHISE

BY CD
DEPUTY

STATE OF ARIZONA,

GRAND JURY NO. 16- 0290

Plaintiff,

CASE NO. CR2016- 00938

vs.

INDICTMENT

RANDALL ALEXANDER BISCHAK,

Defendant.

The Grand Jurors of the County of Cochise, in the name of the State of Arizona,

and by its authority accuse:

RANDALL ALEXANDER BISCHAK

and charge that in Cochise County:

COUNT 1

From on or about March 6, 2016 through April 14, 2016, **RANDALL ALEXANDER BISCHAK** committed sexual exploitation of a minor by knowingly distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor under the age of fifteen years is engaged in exploitive exhibition or other sexual conduct, to wit: file name f7ab5dd0-95c3-46a9-8c74-96d6b6b27adf.mp4, located on his cellular phone, in violation of A.R.S. §§ 13-3553.A.2, 13-3551, 13-3556, 13-3557, 13-105, 13-701, 13-702, 13-703, 13-705, and 13-801, a class 2 felony, punishable pursuant to § 13-705.

COUNT 2

From on or about March 6, 2016 through April 14, 2016, **RANDALL ALEXANDER BISCHAK** committed sexual exploitation of a minor by knowingly distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor under the age of fifteen years is engaged in exploitive exhibition or other sexual conduct, to wit: file name 6e0ddle4-1223-4e2d-8135-26a6fb3128df.mp4, located on his cellular phone, in violation of A.R.S. §§ 13-3553.A.2, 13-3551, 13-3556, 13-3557, 13-105, 13-701, 13-702, 13-703, 13-705, and 13-801, a class 2 felony, punishable pursuant to § 13-705.

1 **COUNT 3**

2 From on or about March 13, 2016 through April 14, 2016, **RANDALL ALEXANDER**
3 **BISCHAK** committed sexual exploitation of a minor by knowingly distributing, transporting,
4 exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging
5 any visual depiction in which a minor under the age of fifteen years is engaged in exploitive
6 exhibition or other sexual conduct, to wit: file name 1717deaa-efla-480e-b8aa-
9ba8e7658c43.mp4, located on his cellular phone, in violation of A.R.S. §§ 13-3553.A.2, 13-
3551, 13-3556, 13-3557, 13-105, 13-701, 13-702, 13-703, 13-705, and 13-801, a class 2 felony,
punishable pursuant to § 13-705.

7 **COUNT 4**

8 On and before April 14, 2016, **RANDALL ALEXANDER BISCHAK** committed
9 sexual exploitation of a minor by knowingly distributing, transporting, exhibiting, receiving,
10 selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in
11 which a minor under the age of fifteen years is engaged in exploitive exhibition or other sexual
conduct, to wit: file name d7772685-c0d5-462f-a036-3a938bd50d73.mp4, located on his cellular
phone, in violation of A.R.S. §§ 13-3553.A.2, 13-3551, 13-3556, 13-3557, 13-105, 13-701, 13-
702, 13-703, 13-705, and 13-801, a class 2 felony, punishable pursuant to § 13-705.

12 **COUNT 5**

13 From on or about March 18, 2016 through April 14, 2016, **RANDALL ALEXANDER**
14 **BISCHAK** committed sexual exploitation of a minor by knowingly distributing, transporting,
15 exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging
16 any visual depiction in which a minor under the age of fifteen years is engaged in exploitive
exhibition or other sexual conduct, to wit: file name 97d90027-6226-4aa6-9304-
44bb28acd13d.mp4, located on his cellular phone, in violation of A.R.S. §§ 13-3553.A.2, 13-
3551, 13-3556, 13-3557, 13-105, 13-701, 13-702, 13-703, 13-705, and 13-801, a class 2 felony,
punishable pursuant to § 13-705.

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COUNT 6

From on or about March 19, 2016 through April 14, 2016, RANDALL ALEXANDER BISCHAK committed sexual exploitation of a minor by knowingly distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor under the age of fifteen years is engaged in exploitive exhibition or other sexual conduct, to wit: file name 959eddd3-b775-4bb0-9053-bladd8e4c77cc.mp4, located on his cellular phone, in violation of A.R.S. §§ 13-3553.A.2, 13-3551, 13-3556, 13-3557, 13-105, 13-701, 13-702, 13-703, 13-705, and 13-801, a class 2 felony, punishable pursuant to § 13-705.

DATED this 17th day of November, 2016.

COCHISE COUNTY ATTORNEY

True Bill

BY:

Sara V. Ransom
Sara V. Ransom
Deputy County Attorney

[Signature]
Foreperson of the Grand Jury

/sc

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, In and for the County of Cochise

JUDGE: HONORABLE TERRY BANNON,
DIVISION:
COURT REPORTER:
INTERPRETER:

MARY ELLEN DUNLAP, Clerk of the Superior Court
by: (2/13/2017 3:18:36 PM), Deputy Clerk

HEARING DATE: 02/02/2017

<<PETITIONERADDRESS_FIRST_NAME>>
<<PETITIONERADDRESS_MIDDLE_NAME>>
<<PETITIONERADDRESS_LAST_NAME>>,
Petitioner,

VS

<<RESPONDENTADDRESS_FIRST_NAME>>
<<RESPONDENTADDRESS_MIDDLE_NAME>>
<<RESPONDENTADDRESS_LAST_NAME>>,
Respondent.

CASE NO: S0200JD201500060

MINUTE ENTRY: XXXX

HEARING START TIME: 09:00 AM

HEARING END TIME: 2/2/2017 9:30:00 AM

Petitioner Choose an item.

Respondent Choose an item.

This matter came before the Court this date for XXXXXXXXXXXX

Filed on 2/13/2017 3:18:37 PM, Clerk

Date: 02/02/2017 Case No.: S0200JD201500060
Minute Entry – XXXXX

xc: e-mailed (e) by: XXXX date: XXXX; mailed/distributed by: _____ date: _____

☐ Petitioner:

☐ Respondent:

☐ Clerk's Office/Child Support

☐ DIV XXX JAA

☐ Court Administration

☐ Other

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, In and for the County of Cochise

**JUDGE: TERRY BANNON,
DIVISION: DIVISION VI
COURT REPORTER:
INTERPRETER:**

MARY ELLEN DUNLAP, Clerk of the Superior Court
by: (2/13/2017 3:18 PM) Deputy Clerk

HEARING DATE: 02/02/2017

IN THE MATTER OF THE GUARDIANSHIP OF:

NAME: XXXXXXXXXXXXXXXXXXXXX

DOB: XX/XX/XXXX

Minor

CASE NO: S0200JD201500060

MINUTE ENTRY: REVIEW HEARING

HEARING START TIME: 09:00 AM

HEARING END TIME: 2/2/2017 9:30:00 AM

PRESENT:

Filed on 2/13/2017 3:18:54 PM, Clerk

xc: e-mailed (e) by: XXXX date: XXXX; mailed/distributed by: _____ date: _____

- ☐ Petitioner's Attorney
- ☐ Guardian
- ☐ DIV II JAA
- ☐ Other

Arizona Superior

COURT

Cochise

County, Arizona

STATE OF ARIZONA

Plaintiff

-vs

RANDALL ALEXANDER BISCHAK
Defendant(s) (First, MI, Last)WARRANT FOR
ARRESTCASE NO.
CR201600 938

FILED

2016 NOV 17 PM 1:45

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT

By

DEPUTY

TO: ANY AUTHORIZED LAW ENFORCEMENT OFFICER,

YOU ARE COMMANDED to arrest and bring the defendant before this court. If this court is unavailable or if the arrest is made in another county, you shall take the defendant before the nearest or most accessible Magistrate. The defendant is accused of an offense or violation based on the following document filed with the court: (List the reason for the warrant – use only one of the following selections per warrant)

- ☒ Indictment ☐ Supervening Indictment ☐ Information ☐ Complaint ☐ Probation Violation
☐ Order of the Court ☐ Court Rule violation ☐ Failure to Appear (criminal) ☐ Failure to Comply
☐ Violation of Promise to Appear

This offense or violation is briefly described as follows:

Offense Date	Statute/Rule & Literal Description	Class
03-06-2016 – 04-14-2016	A.R.S. 13-3553 Sexual Exploitation of Minor (6 counts)	F2

- ☒ The defendant may be released if a \$250,000.00 (secured appearance) (cash) bond is posted by or on behalf of the accused.
☐ The defendant shall be held WITHOUT BOND.

The offense is, or is materially related to, a victims' rights applicable offense.

November 17, 2016
Date
Judicial Officer/Clerk of Superior Court

SEX: Male	RACE: Caucasian	DOB: 01/05/1991	HGT: 5'09"	WGT: 180 Lbs.	EYES: Green	HAIR: Blonde
ADDRESS: Currently In Federal Custody -OR- 1595 Paseo san Luis, Sierra Vista, AZ 85635						
DL#:		STATE:		EXTRADITION: ACIC		
COURT ID: 0200		WARRANT #: CR201600938		PURGE DATE:		
LE AGENCY: Sierra Vista P.D.		CITATION #:		DR #: 16-14197		

CERTIFICATE OF EXECUTION

I certify that the defendant was arrested at _____ a.m./p.m. on _____ 20____
(month) (day) (year)
and presented defendant before Judge _____ at _____

Date

Agency

Deputy Sheriff/Officer

Badge #

SUPERIOR COURT, STATE OF ARIZONA, In and for the County of Cochise

<p>XXXXXXXXXXXXX, Plaintiff, vs. <<DEFENDANTADDRESS_FIRST _NAME>><<DEFENDANTADDRE SS_MIDDLE_NAME>><<DEFEND ANTADDRESS_LAST_NAME>> Defendant.</p>	<p>Case No. <<DEFENDANTADDRESS_CA SE_NUMBER>> ORDER AMENDING MINUTE ENTRY FROM COURT HEARING DATE: XXXXXX</p>			
<table><tr><td>HONORABLE TERRY BANNON, DIVISION XXXX</td><td>MARY ELLEN DUNLAP, Clerk By: (xx/xx/xx) Deputy</td></tr></table>			HONORABLE TERRY BANNON, DIVISION XXXX	MARY ELLEN DUNLAP, Clerk By: (xx/xx/xx) Deputy
HONORABLE TERRY BANNON, DIVISION XXXX	MARY ELLEN DUNLAP, Clerk By: (xx/xx/xx) Deputy			

Dated this xx day of xxxxxx, 201x.

xc: mailed/distributed: by xxx on xx/xx/xx

OFFICE DISTRIBUTION
|| APPEALS
|| BONDS: REFUND/FORFEITURE
|| FINES/ATTY. FEES/RESTITUTION
|| CHANGE OF VENUE
|| JURY FEES
|| ATTORNEY: APPT & CLAIMS
|| SUPPORT
|| DIVISION
|| MAILED

SUPERIOR COURT OF ARIZONA
COUNTY OF COCHISE

Date November 17, 2016

STATE OF ARIZONA, Plaintiff

vs.

RANDALL ALEXANDER BISCHAK, Defendant

DOB: (01/05/1991)

MINUTE ENTRY ACTION:

GRAND JURY INDICTMENT

CASE NO: CR201600938

JUDGE HONORABLE JAMES L. CONLOGUE
DIVISION Five
COURT REPORTER Van G. Honeman
ADDRESS & PHONE

MARY ELLEN DUNLAP, CLERK
By: Chelsea DeBee, Deputy Clerk (11-17-16)
Docketed by CO

PRESENT: State present: Sara Ransom, Deputy County Attorney, and Grand Jurors;

THE RECORD MAY SHOW the Grand Jury returned an Indictment against **RANDALL ALEXANDER BISCHAK**, bearing Grand Jury No. **GJ16-0290** which the Court assigned Superior Court Case No. **CR201600938** for **STATE OF ARIZONA -vs- RANDALL ALEXANDER BISCHAK**, assigned to Division **THREE** of this court.

IT IS ORDERED that a Grand Jury warrant be issued A.C.I.C. for the arrest of the Defendant. Defendant shall be held on **Two Hundred Fifty Thousand (\$250,000.00) Dollars Bond**, cash or secured, pending further order of the Court. Upon apprehension, the defendant shall be brought before the Honorable, **James L. Conlogue** for arraignment purposes only.

xc: County Attorney
IDC
Van G. Honeman
Grand Jury master file
CCSO/Warrants (Certified)

EXHIBIT H

Anthony Savage Indictment

FILED

2017 FEB -2 PM 3:00

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT

BY

DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

STATE OF ARIZONA,

Plaintiff,

vs.

ANTHONY SAVAGE,

Defendant.

GRAND JURY NO. 17- 0037

CASE NO. CR2017- 00100

INDICTMENT

The Grand Jurors of the County of Cochise, in the name of the State of Arizona,

and by its authority accuse:

ANTHONY SAVAGE

and charge that in Cochise County:

COUNT 1

On or about December 16, 2016, **ANTHONY SAVAGE** offered to transfer a narcotic drug to a minor, to wit: R.F., in violation of A.R.S. §§ 13-3409(A)(2)(B), 13-3408, 13-3401, 13-105, 13-701, 13-702, 13-703, and 13-801, a class 2 felony.

COUNT 2

On or between December 17, 2016 and January 16, 2017, **ANTHONY SAVAGE** offered to transfer a narcotic drug to a minor, to wit: R.F., in violation of A.R.S. §§ 13-3409(A)(2)(B), 13-3408, 13-3401, 13-105, 13-701, 13-702, 13-703, and 13-801, a class 2 felony.

COUNT 3

On or between 2014 - 2016 January 23, 2017 and January 26, 2017, **ANTHONY SAVAGE** offered to transfer marijuana to a minor, to wit: R.F., in violation of A.R.S. §§ 13-3409(A)(2)(B), 13-3405, 13-3401, 13-105, 13-701, 13-702, 13-703, and 13-801, a class 2 felony.

COUNT 4

On or between 2015 and 2016, **ANTHONY SAVAGE** intentionally or knowingly engaged in sexual intercourse or oral sexual contact with R.F. who was under eighteen years of age, the first time, in violation of A.R.S. §§ 13-1405, 13-1401, 13-3821, 13-105, 13-701, 13-702, 13-703, 13-801, and 13-902(E), a class 6 felony.

COUNT 5

On or between 2015 and 2016, **ANTHONY SAVAGE** intentionally or knowingly engaged in sexual intercourse or oral sexual contact with R.F. who was under eighteen years of

1 age, the second time, in violation of A.R.S. §§ 13-1405, 13-1401, 13-3821, 13-105, 13-701, 13-
2 702, 13-703, 13-801, and 13-902(E), a class 6 felony.

3 **COUNT 6**

4 On or between 2015 and 2016, **ANTHONY SAVAGE** intentionally or knowingly
5 engaged in sexual intercourse or oral sexual contact with R.F. who was under eighteen years of
6 age, the third time, in violation of A.R.S. §§ 13-1405, 13-1401, 13-3821, 13-105, 13-701, 13-
7 702, 13-703, 13-801, and 13-902(E), a class 6 felony.

8 **COUNT 7**

9 On or between 2015 and 2016, **ANTHONY SAVAGE** intentionally or knowingly
10 engaged in sexual intercourse or oral sexual contact with R.F. who was under eighteen years of
11 age, the fourth time, in violation of A.R.S. §§ 13-1405, 13-1401, 13-3821, 13-105, 13-701, 13-
12 702, 13-703, 13-801, and 13-902(E), a class 6 felony.

13 **COUNT 8**

14 On or between 2015 and 2016, **ANTHONY SAVAGE** intentionally or knowingly
15 engaged in sexual intercourse or oral sexual contact with R.F. who was under eighteen years of
16 age, the fifth time, in violation of A.R.S. §§ 13-1405, 13-1401, 13-3821, 13-105, 13-701, 13-702,
17 13-703, 13-801, and 13-902(E), a class 6 felony.

18 **COUNT 9**

19 On or between January 23, 2017 and January 26, 2017, **ANTHONY SAVAGE**
20 committed luring a minor for sexual exploitation by offering or soliciting sexual conduct with
21 another person knowing or having reason to know that the other person was a minor, to wit:
22 offered to perform oral sex on a police officer posing as a 15 year old minor, in violation of
23 A.R.S. sections 13-3554, 13-3551, 13-3821, 13-105, 13-701, 13-702, 13-703, 13-801, and 13-
24 902(E), a class 3 felony.

25 **COUNT 10**

On or between January 23, 2017 and January 26, 2017, **ANTHONY SAVAGE**
committed aggravated luring of a minor for sexual exploitation by offering or soliciting sexual
conduct with another person knowing or having reason to know that the other person was a
minor, to wit: sent a naked photograph of himself to a police officer posing as a 15 year old
minor, in violation of A.R.S. sections 13-3560, 13-3551, 13-3821, 13-105, 13-701, 13-702, 13-
703, 13-801, and 13-902(E), a class 2 felony.

COUNT 11

On or between 2015 and 2016, **ANTHONY SAVAGE**, acting as an accomplice,
committed sexual conduct with a minor under the age of 18 years when one party was in a
position of trust with the minor, to wit: Defendant and R.F.'s foster father simultaneously
engaged in sexual intercourse or oral sexual contact with R.F., who was then under the age of 18
years, in violation of A.R.S. §§ 13-1405(A)(B), 13-1401, 13-303, 13-105, 13-701, 13-702, 13-
801, 13-901, and 13-902, a class 2 felony.

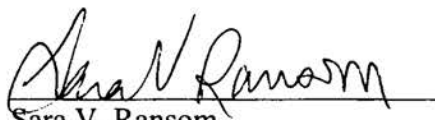
COUNT 12



On or between 2015 and 2016, **ANTHONY SAVAGE**, acting as an accomplice, committed sexual trafficking of a minor under the age of 18 years, to wit: Defendant performed sexual acts upon R.F.'s foster father in exchange for sexual intercourse or oral sexual contact with R.F. who was then under the age of 18 years, in violation of A.R.S. §§ 13-1307, 13-1301, 13-303, 13-105, 13-701, 13-702, 13-801, 13-901, and 13-902, a class 2 felony.

DATED this 2nd day of February, 2017.

COCHISE COUNTY ATTORNEY

BY:


Sara V. Ransom
Deputy County Attorney



Foreperson of the Grand Jury

/ac

EXHIBIT I

New York Times - Afghan
Pedophiles Get Free Pass From
U.S. Military, Report Says

The New York Times | <https://nyti.ms/2GcpoggL>

ASIA PACIFIC

Afghan Pedophiles Get Free Pass From U.S. Military, Report Says

By ROD NORDLAND JAN. 23, 2018

On 5,753 occasions from 2010 to 2016, the United States military asked to review Afghan military units to see if there were any instances of “gross human rights abuses.” If there were, American law required military aid to be cut off to the offending unit.

Not once did that happen.

That was among the findings in an investigation into child sexual abuse by the Afghan security forces and the supposed indifference of the American military to the problem, according to a report released on Monday by the Special Inspector General for Afghan Reconstruction, known as Sigar.

The report, commissioned under the Obama administration, was considered so explosive that it was originally marked “Secret/No Foreign,” with the recommendation that it remain classified until June 9, 2042. The report was finished in June 2017, but it appears to have included data only through 2016, before the Trump administration took office.

The report released on Monday was heavily redacted, and at least in the public

portions it did little to answer questions about how prevalent child sexual abuse was in the Afghan military and police, and how commonly the American military looked the other way at the widespread practice of bacha bazi, or “boy play,” in which some Afghan commanders keep underage boys as sex slaves.

“Although DOD and State have taken steps to identify and investigate child sexual assault incidents, the full extent of these incidences may never be known,” the report said, referring to the departments of Defense and State.

Sigar said it had opened an investigation into bacha bazi at the request of Congress and in response to a 2015 New York Times article that described the practice as “rampant.” The article said that American soldiers who complained had their careers ruined by their superiors, who had encouraged them to ignore the practice.

“DOD and State only began efforts to address this issue after it was raised by The New York Times,” said John F. Sopko, the special inspector general. “And even after that story, the sufficiency of policies they’ve put in place and the resources they’ve committed seem questionable. When Congress passed the Leahy laws they prioritized the issue of gross human rights violations. As our report clearly shows, both agencies failed to live up to that task.”

A former Special Forces officer, Capt. Dan Quinn, who beat up an Afghan commander for keeping a boy chained to his bed as a sex slave, said at the time that he had been relieved of his command as a result. “We were putting people into power who would do things that were worse than the Taliban did,” said Captain Quinn, who has left the military.

Sgt. First Class Charles Martland, a highly decorated Green Beret, was forced out of the military after beating up an Afghan local police commander in Kunduz who was a child rapist. Sergeant Martland became incensed after the Afghan commander abducted the boy, raped him, then beat up the boy’s mother when she tried to rescue him. Congressional inquiries apparently led to Sergeant Martland’s reinstatement.

The Times article also cited the suspicious death of Lance Cpl. Gregory

Buckley Jr., a United States Marine who was killed at a checkpoint where he was stationed with a notorious commander who had a retinue of bacha bazi boys. Corporal Buckley had complained about that commander and was killed, along with two other Marines, by one of the commander's boys.

The Sigar report made no mention of the cases of Corporal Buckley, Captain Quinn or Sergeant Martland, and it appeared to have interviewed only three unnamed American soldiers who reported being aware of the practice, which many soldiers and Afghan officials have told journalists they know to be widespread.

As of Aug. 12, 2016, the Defense Department was investigating 75 instances of gross human rights violations, seven involving child sexual assault, but even Defense Department officials acknowledged that that was a small portion of the total, the Sigar report said.

Under the Leahy Law, United States military aid funds must be cut off to any foreign military unit implicated in gross human rights violations, which includes the practice of bacha bazi, with its enslavement and rape of young boys. But another provision of American law, called the "notwithstanding clause," says that Afghan military aid should be available "notwithstanding any other provision of law."

The Sigar report said that the "notwithstanding clause" had been used repeatedly to evade cutting off military aid to Afghan units.

"DOD's continuing to provide assistance to units for which the department has credible information of a gross violation of human rights undermines efforts by U.S. government officials to engage with the Afghan government on the importance of respect for human rights and rule of law," the report said. But it also said no evidence had been found that American soldiers were ordered to look the other way as a matter of policy, or that their commanders condoned the bacha bazi practice.

American military commanders in Afghanistan have repeatedly denied that there was any policy to condone child sexual abuse.

The Sigar report recommended restricting the use of that “notwithstanding clause” to evade the provisions of the Leahy Law, and a draft defense appropriations bill supports that recommendation.

The practice is so widespread that at least one of the 2014 Afghan presidential candidates was a onetime C.I.A.-backed warlord, Gul Agha Shirzai, who was widely accused of being a pedophile who keeps bacha bazi boys.

President Ashraf Ghani vowed to end the practice in a 2015 speech, but there have been few, if any, prosecutions by the Afghan authorities for bacha bazi practices. Mr. Shirzai is now the minister of border and tribal affairs in Mr. Ghani’s government.

Correction: January 26, 2018

An earlier version of this article referred incorrectly to 5,753 cases from 2010 to 2016 involving the United States and Afghan militaries. Those were cases in which the American military asked to review Afghan units to see if there were “gross human rights abuses,” not the number of times the American military reported such abuses.

Follow Rod Nordland on Twitter: @rodnordland

A version of this article appears in print on January 24, 2018, on Page A10 of the New York edition with the headline: Afghan Pedophiles Get Pass From U.S. Military, Report Says.