

# THE JUSTICE SYSTEM FOR JUVENILE VICTIMS

## A Comprehensive Model of Case Flow

DAVID FINKELHOR  
THEODORE P. CROSS  
ELISE N. CANTOR

*University of New Hampshire*

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*This article proposes the idea that there is a de facto juvenile victim justice system, a complex set of agencies and institutions that responds to juvenile victims of crime and violence, including child maltreatment and conventional crime. The article offers a schematic model of that system and tries to quantify the case flow through its various components, that is, the likelihood that given certain actions (e.g., a substantiated finding of maltreatment), other actions will follow (e.g., services be provided). The model also highlights the activities of the system most likely to have consequential effects on victims. We argue that more professionals are needed who understand the system in its entirety, not just their own agency role, and who can help guide victims, families, and other professionals through its complexities. More efforts are also needed to integrate and rationalize the system, particularly through information exchange among its components.*

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**Key words:** *sexual abuse, sexual assault, crime, child maltreatment, child abuse*

THE JUVENILE JUSTICE SYSTEM is the term that typically denotes the system that processes young offenders who have committed crimes or status offenses. However, there is a parallel de facto system that responds to young victims of crime and violence, what might be called the *juvenile victim justice system*. It is a complex set of agencies and institutions that includes police, prosecutors, criminal and civil courts, child protection agencies, Children's Advocacy Centers, victim service, and mental health agencies. The system has a structure and sequence; however, its operation, despite the thousands of cases it

handles every year, is not as widely recognized and understood as the operation of the juvenile offender justice system.

The juvenile victim justice system is not as widely recognized, in part, because it is a fragmented system. It has not been conceptualized as a whole or put into place by a common set of statutes in the way the juvenile offender justice system has. Many of the agencies that handle juvenile victims are part of other systems, not designed primarily with juvenile victims in mind. However, increasingly, as policies about juvenile victims evolve and more professionals spe-

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cialize in this area, the relevance of thinking about a juvenile victim justice system has grown. This systemic concept can help change policy and practice to make the system more responsive to child victims and further the system's missions of protecting children and achieving justice. Other practical benefits in such areas as victim assistance, information management, and system design are discussed below.

This article describes the major elements of the justice system for juvenile victims and what is known about the flow of cases through this system. Similar to the system for processing juvenile offenders, it is a system that is governed at the state level and implemented somewhat differently in each community. So there are wide variations in practices and procedures across the country. However, there are important commonalities among these systems that are possible to describe in a schematic way. Also similar to the justice system for processing juvenile offenders, the term *justice system for juvenile victims* includes many objectives (such as rehabilitation) and many agencies (such as mental health agencies) that are not traditionally thought of as elements of law enforcement and administration.

The statistics on case flow here come from multiple sources, many accessible on the Internet, each examining a piece of the juvenile victims justice system. The National Child Abuse and Neglect Data System (NCANDS; U.S. Department of Health and Human Services [USDHHS], 2004) collects and publishes annually data collected by the child protective agencies in individual states. The National Incident Based Reporting System (NIBRS; Federal Bureau of Investigation, n.d.) is an emerging effort by the Federal Bureau of Investigation to collect more detailed information about crime from local law enforcement; although, for the 1999 data we use here, NIBRS data come from only 17 states, cover 11% of the United States' population, and underrepresent crime experiences of large urban areas. The National Crime Victimization Survey (NCVS; Rennison, 2001) is a national survey of the U.S. population ages 12 years and older conducted by the Bureau of the

## KEY POINTS OF RESEARCH REVIEW

- The juvenile victim justice system encompasses two subsystems, the criminal justice system and the child protection system, which have considerable and increasing interaction.
- About 67% of reports to the child protection system were accepted for investigation or assessment, and the substantiation/indication rate was estimated to be about 30% of all reports.
- About 59% of maltreated children received post-investigation services documented through the child protection system.
- Court actions were initiated for 18% of the substantiated victims of child maltreatment, and approximately 19% of those with a substantiated finding of child maltreatment were placed outside the home.
- About 66% of children exiting foster care were reunified with their families; parents rights were terminated for about 11% of all those in foster care.
- In juvenile victimizations that became known to the police, offenders were arrested in 28% of violent crimes and 4% of property crimes.
- Charges were filed in an average of 66% of child abuse cases referred to prosecutors, and 79% of cases were carried forward without dismissal.
- Defendants pleaded guilty in an average of 82% of child abuse cases, which is almost the same as the percentage of general violent offenders.
- The mean incarceration rate for child abuse cases was 54% of convicted offenders, although these rates varied from 24% to 96%.

Census on behalf of the U.S. Department of Justice. It gathers a wide range of information from citizens on their crime victimizations, including experiences with law enforcement, but is limited to specific types of victimizations (the violent crimes of physical assault, rape, sexual assault, and robbery, and the property crimes of larceny and motor vehicle theft). Similar to NCANDS, the Adoption and Foster Care Analysis System (AFCARS; USDHHS, 2001b, 2003) gathers child protective agency data but focuses on what happens when CPS takes custody, almost always because of child victimization. The National Survey of Child and Adolescent Well-Being (NSCAW; USDHHS, 2001a) is a longitudinal study of 6,100 children to understand short and long-term outcomes for children and families who come into contact with the child

welfare system. The National Incidence Study (Sedlak & Broadhurst, 1996), a survey of professionals, provides an estimate of how many child maltreatment victims become known to the child protection system and other authorities. Additional smaller reports and journal articles have filled several gaps as well.

These data sources all have limitations that are widely acknowledged (Finkelhor & Wells, 2003). For example, NCANDS, NIBRS, and AFCARS are all compilations of administrative data from individual states and communities that have differing definitions, statutory frameworks, bureaucratic structures, and operating procedures. For another example, the NCVS has been faulted for its underestimation of crimes committed by family and intimate partners. Nonetheless, for all their problems, these sources do provide some quantification about important policy issues that have often been the source of confusion and debate in regard to child victims.

### JUVENILE VICTIMIZATION: CRIME AND CHILD MALTREATMENT

One of the central complexities of the juvenile victim justice system is that it encompasses two distinct subsystems: the criminal justice system and child protection system (CPS). These systems are typically thought of as quite separate; however, the interaction in cases involving juvenile victims is considerable and increasing (see, e.g., Cross, Finkelhor, & Ormrod, in press; Sheppard & Zangrillo, 1996a, 1996b; Tjaden & Anhalt, 1994; Winterfield & Sakagawa, 2003).

Officially the two systems concern two different issues, crime and child maltreatment. However, these domains overlap considerably. The crime domain, when it comes to juvenile victims, includes all the offenses customarily seen as violent such as homicides and physical and sexual assaults. However, it also includes nonforcible sex offenses such as incest and statutory rape, property crimes such as theft, and criminal neglect. Across these crime categories, the justice system places no restriction on who the perpetrator might be—family members, strangers, adults, or juveniles.

In contrast, the child maltreatment domain, the concern of the CPS, is usually limited by statute to perpetrators who occupy a caretaking relationship to the child victim, and thus tend to be adult family members or other caretakers. Child maltreatment is divided into the categories of physical and sexual abuse, neglect, and emotional maltreatment.

Direct overlap between the two systems primarily concerns physical and sexual abuse, which are generally considered both child maltreatment and crimes because they involve assaults. Episodes of neglect and emotional maltreatment may or may not be crimes, depending on the acts and state statutes.

The concept of child maltreatment rarely includes property crimes, even when committed by caretakers and family members. Those concerned with crimes against children also generally ignore property crimes, in part, because they seem so much less serious than the violent crimes and sex offenses that dominate this literature. Nonetheless, law enforcement agencies receive reports every year of hundreds of thousands of property crimes against juveniles (Finkelhor & Ormrod, 2000b), which research suggests have significant negative psychological impact on their victims (Norris & Kaniasty, 1994). These crimes need to be considered to understand the response of the justice system to juvenile victims.

It has become increasingly clear that the CPS's mission can only be done effectively through coordination with the criminal justice system. It has also become evident that the criminal justice system cannot provide true justice without ensuring the current and future protection of the child victims whose cases it processes. So concerns about justice for and protection of juvenile victims have increasingly led professionals from each of the separate systems to look at the operation of their systems in combination.

Figure 1 portrays the case flow of what we have termed the *juvenile victim justice system*. Following Figure 1 from left to right, this article reviews each step in the case flow process for the child protection and criminal justice components. At each step, we review the research evi-

# The Juvenile Victim Justice System

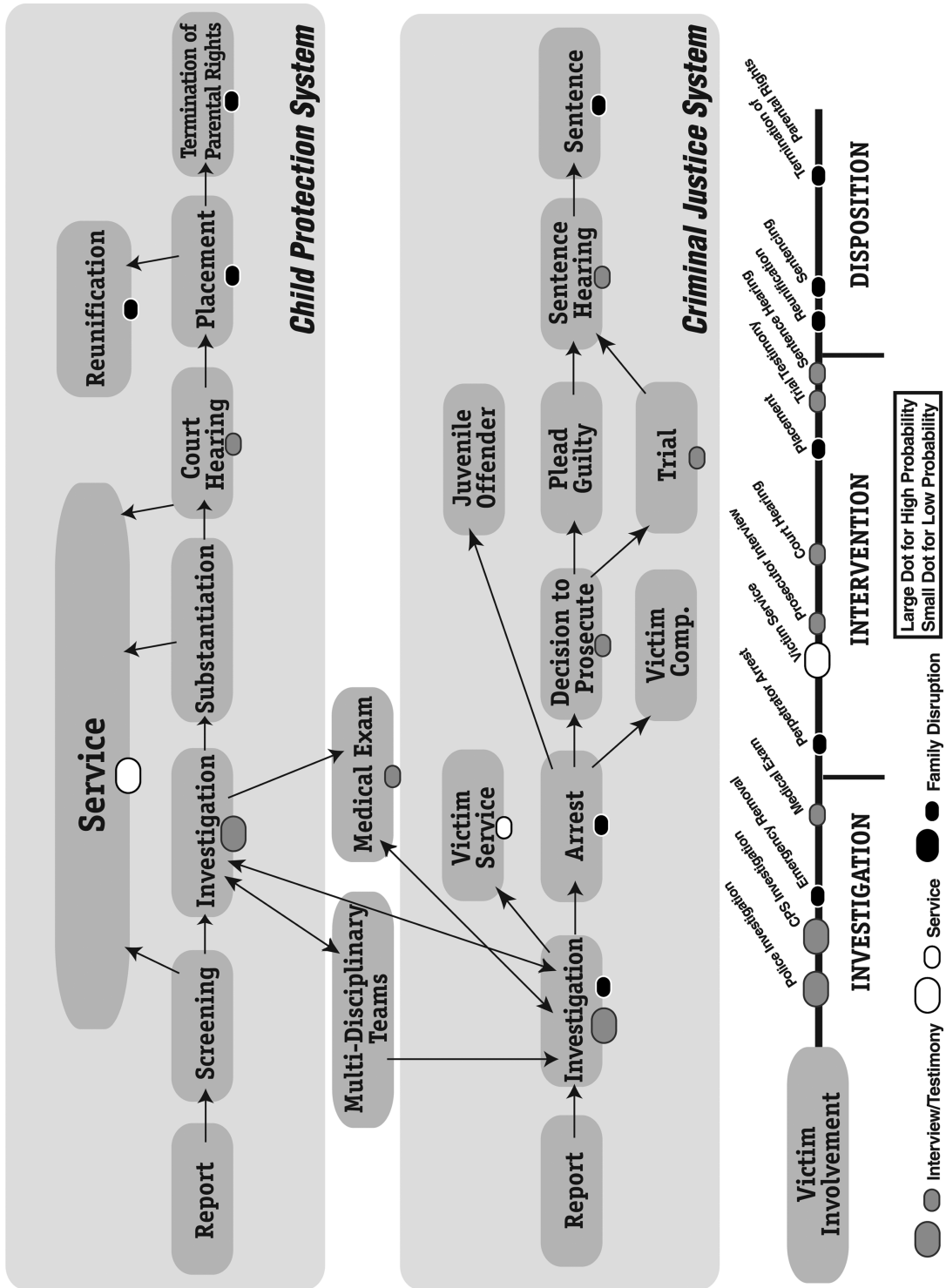


Figure 1: The Juvenile Victim Justice System

**TABLE 1: Characteristics of Juvenile Victims Coming to the Attention of Child Protection (CPS) and the Criminal Justice System (CJS) (data in percentages)**

	CPS <sup>a</sup>	CJS <sup>b</sup>	
		Violent	Property
Gender			
Male	48	48	65
Female	52	52	35
Age			
0 to 5 years	40	8	2
6 to 11 years	34	21	11
12 to 17 years	25	71	87
Type of offense <sup>c</sup>			
Neglect	51	—	—
Physical abuse/assault family	10	18	—
Physical abuse/assault other	1	59	—
Sexual abuse/assault family	4	6	—
Sexual abuse/assault other	2	14	—
Multiple types of maltreatment/family	15	—	—
Multiple types of maltreatment/other	15	—	—
Other maltreatment	12	—	—
Robbery		2	6
Kidnap		1	—
Homicide		0.1	—
Larceny		—	77
Vandalism		—	22
Motor vehicle theft		—	2

a. National Child Abuse and Neglect Data Systems (NCANDS), 2002.

b. National Incident Based Reporting System (NIBRS) (based on 11 states only), 2000.

c. Adds to more than 100% because of multiple types.

dence, where it exists, for the proportion of cases (and therefore child victims) following a path. We then discuss the implications of this case flow for understanding and improving the response to child victims. For the sake of simplicity, many less typical actions that can occur within the system are omitted from the figure. (A color copy of the figure is available at [www.unh.edu/ccrc/pdf/justicechart.pdf](http://www.unh.edu/ccrc/pdf/justicechart.pdf).)

## REPORTED AND UNREPORTED VICTIMIZATION

The gateway to the juvenile victim justice system is a report to an authority, which for the most part is either the police or the CPS. Extrapolation from data in the NIBRS suggests that in 1999 about 900,000 violent crimes against children were reported to the police nationwide. Three-quarters of these crimes were some type of physical assault and a fifth were some type of sex offense (see Table 1). There were also about 400,000 property crimes against juveniles re-

ported; three-quarters of these were larceny and/or theft (Finkelhor & Ormrod, 2000b).

The NCANDS records about 2.6 million referrals annually to child protection authorities for suspicion of child maltreatment by caretakers (USDHHS, 2004). The majority of victims, 59%, were referred because of neglect by children's caretakers. An additional 19% were for physical abuse, and 10% for sexual abuse. (These percentages pertain to reports and differ somewhat from figures in Table 1 that pertain to substantiated maltreatment only.) It is not known how much overlap there is in these crime and maltreatment figures, that is, how many children were logged in as a report to police and child protection. However, the police reports are quite skewed toward older children (71% of the violent crime victims are age 12 years or older), whereas CPS cases are made up predominantly of younger children (74% of substantiated victims are younger than age 12 years). This suggests the two victim populations have relatively modest overlap.



The reports to the CPS system come primarily from professionals (57%; USDHHS, 2004), who are legally mandated under state law to report suspicions of child maltreatment. The largest category of professional reporters is composed of teachers and educational professionals (16%), followed by criminal justice (14%) and social service professionals (12%). Direct reports from alleged victims and parents make up less than 10% of the total.

Reports to police about juvenile victimization, by contrast, tend to come from victims and families. For violent victimizations of children, 29% come from victims themselves and another 30% from another member of the victim's household (Ormrod, 2002). For property crimes, the proportion coming from victims or their household is even higher. Reports to police from officials such as school authorities and CPS workers are relatively infrequent—21% for violent crimes and 14% for property crimes, respectively—much less than the proportion of reports from officials to CPS (57%). As might be expected, compared to adult victimizations, juvenile victimizations are reported more by family members and other officials, and less by the victims themselves.

Beyond reporting, it is widely recognized that an enormous amount of crime and maltreatment against children does not ever come to the attention of police or child welfare authorities. According to the NCVS, police knew about only 28% of the violent crimes occurring to juveniles ages 12 to 17 years. This reporting rate for offenses against juveniles is substantially lower than for offenses against adults. Moreover, because the youngest children in the NCVS (the 12-year-olds) have the lowest reporting rates, police are even less likely to find out about crimes against children younger than age 12 years (Finkelhor & Ormrod, 1999). Crimes are more likely to be reported to the police when they involve injuries, adult or multiple offenders or families who have had prior experience with police or been advised to report to them (Finkelhor & Wolak, 2003). Involvement of school authorities may inhibit reporting to police because many schools try to handle these episodes on their own.

Child maltreatment is also widely underreported to authorities, although the data are less precise about how much so. The National Incidence Study of Child Abuse and Neglect (Sedlak & Broadhurst, 1996) found that only 28% of cases known to professionals in the community could be traced to any investigation conducted by the local CPS. The percentage was higher for physical and sexual abuse, (48% and 42%, respectively) than it was for neglect (18%). These statistics can be taken as a crude measure of underreporting by professionals; however, it is not clear to what extent these professionals simply did not report or rather made reports that were screened out by CPS officials (Sedlak & Broadhurst, 1996). In addition, professionals themselves do not know about a considerable amount of child maltreatment.

In summary, millions of children annually enter the juvenile victim justice system through reports to police (mostly by victims and their families) and child protective services (mostly by professionals). However, there appear to be millions of additional children whose victimization is not reported, and many others whose victimization remains secret.

## THE CHILD PROTECTION SYSTEM

The operation of the juvenile victim justice system varies considerably according to whether the initial report is made to police or the CPS. Thus, this article will describe the processes separately, starting with a report to the CPS, and then with a report to the police. The path for the CPS is portrayed in the top of Figure 1, with the steps in the process described below depicted in chronological order, from left to right, in the figure.

### *Screening*

It is important to recognize that because state law requires professionals to report so-called suspicions of child abuse, the calls (called reports) coming in to the CPS may concern a child who has not truly been victimized. These reports of child maltreatment are often cited as statistics on actual maltreated children (as in,

“2.6 million abused children reported each year”); however, they are not. Child protection agencies screen out many calls very quickly because they concern suspicions that are judged to be unfounded, contain too little or unreliable information, or concern situations that do not fall within the agency’s jurisdiction. As an overall national average, about 67% of reports are accepted for investigation or assessment (USDHHS, 2004). State agencies vary considerably in what they are willing and able to investigate, with some accepting (i.e., screening in) only very serious and specific allegations, and others conducting at least a minimal inquiry on a much broader range of reports (Wells, 1998). One study found that cases involving sexual abuse, allegations of drug use, families on welfare, and direct evidence of maltreatment were more likely to be screened in, and cases involving custody disputes were more likely to be screened out (Karski, 1999).

### ***Child Maltreatment Investigation***

The first objectives of the child protective investigation are to assess and to take whatever steps are necessary to insure children’s safety. Because children may be in danger, child protection investigations need to be timely. State laws require a response within a fixed period of time. Among states that report investigation response time, the average is about 2 days; however, states vary from 5 hours to about 12 days (USDHHS, 2004). At the investigation stage, workers may authorize a medical examination and an evaluation by mental health or other experts.

Investigations are not always part of the child protection process. As of 2001, 20 states had adopted an innovative, so-called two-track system, in some communities or in the entire state (Walter R. McDonald & Associates, 2001). Cases involving less serious allegations and lower levels of risk are not opened for investigation at all, but are instead assessed by child protection workers for the possibility of needed services. Only serious allegations are formally investigated. In states with such systems, a large majority of the screened-in reports of maltreatment

(71% in Missouri, 73% in Virginia) are being handled on this “assessment only” track (Schene, 2001).

In cases in which investigations are done, investigators have authority to take the child into custody on an emergency basis. In Connecticut, for example, child protective workers there may remove children immediately for up to 4 days, typically with the help of the police, if the children have a serious physical illness or injury or are in immediate danger from their surroundings or from being unattended (State of Connecticut, 2004).

### ***CPS Referral to Police and Prosecutors***

Referrals of child protection reports to police and prosecutors occur primarily at the investigation stage. Some state laws, in fact, require automatic referral of certain types of maltreatment allegations to police or prosecutors at some stage of the CPS investigation. In other places, referral to police and prosecutors is more discretionary. Child protection workers involve police when they need investigative help or as soon as they confirm evidence that a criminal law has been violated. Referral to police is most consistent and immediate when cases involve allegations of sexual abuse, child death, or physical abuse that involves particularly serious injury, brutality, or callousness (see, e.g., International Association of Chiefs of Police, 1977).

In some communities, police investigate independently, while in others, child protection workers and police conduct joint investigations (see, e.g., Cross, Finkelhor, et al., in press). In others, police and child protection workers conduct coordinated investigations as part of a multiagency team. Some jurisdictions have even experimented with turning CPS investigation activities over to police entirely (Cohen, Kinnevy, et al., 2002). Nationally, police are in-

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volved in more sexual abuse investigations (45%) than investigations about physical abuse (28%) or neglect (20%; Cross, Finkelhor, et al., in press). There is great variability, however, among jurisdictions, given the dramatic differences in state laws and levels of interagency cooperation.

### **Medical Examination**

A medical examination can provide crucial evidence to substantiate crime or child maltreatment. It also can assess children's medical needs and assist recovery by reassuring children about their body and providing them an opportunity to talk with a trusted authority. Many states and jurisdictions have specialized child abuse medical diagnostic units to perform these exams. The percentage of reported children who receive medical exams varies greatly across studies but occurs in 10% to 25% of all cases (Berliner & Conte, 1995; Faller & Henry, 2000; Hibbard, 1998; Whitcomb, Goodman, Runyan, & Hoak, 1994).

These exams can disclose previous similar or related injuries, can check whether injury details are consistent with the history given by caretakers or reporters, and can sometimes differentiate accidents and disease conditions from injuries that are likely to have been inflicted (Jenny, 2002). Injuries and aspects of genital physiology, semen, and hair can also help confirm sexual abuse and help identify perpetrators. On the other hand, abuse often can neither be confirmed nor disconfirmed by a medical examination. In examinations subsequent to allegations of sexual abuse, definitive physical findings are established in only about one fourth of the cases (Britton, 1998; Kerns, 1998).

### **Substantiation of Child Maltreatment**

The primary outcome of a child maltreatment investigation is a determination by the investigator of whether maltreatment occurred, a determination that generally requires a preponderance of evidence as its standard of proof. The most common term for this is *substantiation*; however, other terms such as *confirmation* or

*support* are also used. In some states (referred to as three-tiered states) there is another category, *indicated*, which means that evidence is consistent with child maltreatment but is not strong enough to substantiate (Depanfilis & Salus, 2003).

Substantiation rates, including substantiated and indicated reports, are estimated to be 30% of all reports nationwide (USDHHS, 2004). These rates vary somewhat by type of maltreatment and more dramatically by state. For example, in Massachusetts, allegations were supported in 55% of investigations in 2002, while in New Hampshire, only 9% were substantiated (USDHHS, 2004). Historically, as the number of reports has risen, these rates have declined. This change could be a reflection of increasing conservatism in substantiation standards, an increase in reporting of less serious situations, or a sign of limitations in investigative resources in CPS agencies.

When reports of child maltreatment are not substantiated, it can be for a variety of reasons, including failure of the family or other informants to cooperate with the investigation, lack of sufficient evidence about the allegation, discovery that the allegation was outside the jurisdiction or authority of the agency, or even sometimes because of inability of the agency to adequately investigate because of time or manpower constraints. The number of willfully false or malicious allegations is generally shown to be quite small (Everson & Boat, 1989; Jones & McGraw, 1987; Oates et al., 2000). The few states that count intentionally false cases find these have occurred in well under 1% of all investigations (USDHHS, 2004). Some observers have noted that a form of plea bargaining sometimes operates in the substantiation process, whereby reports are unsubstantiated or made for a less serious form of maltreatment (e.g., neglect rather than sexual abuse) in exchange for a commitment to accept services or other interventions (Eckenrode, Powers, Doris, Munsch, & Bolger, 1988).

*Provision of services.* An important goal of the CPS is to prevent future episodes of maltreatment among the children served. One of the



main avenues for this is through preventive or remedial services such as counseling, parent education, and family support. According to state data, it takes an average of 7 to 8 weeks from the start of investigation to the actual provision of services (USDHHS, 2004). About 59% of children who are maltreated receive postinvestigation services documented through the CPS, although, once again, the rates among states range from 100% down to only 15%. Although there is widespread concern that the CPS does not do an adequate job of providing services, it cannot be said confidently that the 45% of children who are maltreated without CPS-documented services all needed services or all failed to get them. For example, informal and familial solutions to child maltreatment situations (e.g., a parent moving in with grandparents) may be deemed adequate solutions from the CPS point of view. Children and families may also receive services from non-CPS sources such as family service or mental health agencies. In fact, referral to services may occur at almost every juncture represented in Figure 1, including from the criminal justice system (arrows have been omitted for the sake of simplicity).

### **Court Hearing**

Families with a substantiated child maltreatment finding proceed to a formal court hearing only when child protective workers believe there is cause to remove the child on more than an emergency basis or need to take custody of the child for some other reason. In 2002, court actions were initiated for 18% of the substantiated victims of child maltreatment (USDHHS, 2004).

There has been a recognition that the child victims involved in these court proceedings need someone who can represent their needs and point of view independent from the state agency bringing the child protection action. Examples are court-appointed special advocates and guardians *ad litem*. According to reports from a limited number of states, about 80% of these child victims were provided with such representatives.

### **Out-of-Home Placement**

Removal of a child from their home is certainly the most serious intervention taken by the CPS. Approximately 134,000 child victims were removed in 2002 or about 19% of those with a substantiated finding of child maltreatment (USDHHS, 2004). Rates for individual states varied considerably. Most fell between 9% and 34%, although 2 of the 42 states reporting fell below that range and eight above. The rate of child removal is roughly 6% of the total number of children investigated for suspicion of child maltreatment, and roughly 4% of those reported. An additional 67,000 children who were nonvictims were also removed—typically, siblings of the child victims. Some additional children are allowed to remain in their home, but only with supervision.

When removed, children are placed in a variety of different settings. According to the Adoption and Foster Care Analysis and Reporting system, three fourths of children in foster care are in foster families, one fourth with their relatives, and one half with nonrelatives (Children's Bureau, 2001; USDHHS, 2001b). About 10% are placed in institutions and another 8% in group homes (these proportions include some children in foster care for reasons other than child maltreatment).

Some children are removed from the home on an emergency basis even during the investigation; however, the typical removal is for a longer period and involves action by the court. The median length of stay in foster care is 16.5 months, although this statistic applies to all children in foster care, not just those placed there because of child maltreatment (Child Welfare Outcomes, 2001; USDHHS, 2001b). Children being cared for by relatives tend to stay for longer periods of time because the placement is generally viewed as a permanent one.

### **Reunification**

Most children placed into foster care, however, do return to their families. In 1999, the percentages of children exiting foster care to re-

unify with their families ranged from 31% in Illinois to 85% in Idaho, with the median at 66%. A majority of the reunifications in most states occurred within 12 months (Child Welfare Outcomes, 2001; USDHHS, 2001b). Some children, however, need to reenter foster care following reunification because of further maltreatment or risk of maltreatment. Unfortunately, the children who do not return to their families or those who reenter foster care are the group who tend to consume the most time and resources from the social service and justice systems and are at the greatest risk for long-term negative outcomes.

### ***Termination of Parental Rights***

In the most serious cases of child maltreatment, the state moves to terminate parental rights and place a child for adoption. In 2000, parents of 64,000 children, or about 11% of all those in foster care, had their parental rights terminated (Children's Bureau, 2001; USDHHS, 2001b). Not all terminations occurred solely because of child maltreatment. Moreover, because the mean time to termination is 22 months, it is not accurate to calculate terminations as a percentage of substantiated maltreatment for the same year because most terminations are from maltreatment cases recorded for prior years. However, based on a crude annual estimate of 800,000 substantiated victims of child abuse and neglect, the rate of terminations per substantiated child maltreatment victims is about 8%.

### ***Summary***

The CPS's primary goal is to insure child safety; however, it also aims to facilitate delivery of services. On average, about 67% of reports to child protective services are screened in for investigation. Nationally about 30% of investigations lead to substantiation, though this rate varies greatly by state. CPS can initiate a number of interventions during or as a result of investigation, including medical examinations, referral to criminal justice, and service delivery by CPS and other agencies. Removing children on an emergency basis or as a result of a court

hearing is fairly rare, and nationally most children who are removed are later reunified with their families.

## **THE CRIMINAL JUSTICE SYSTEM**

In addition to referrals from the CPS, the criminal justice system receives many reports of child victimization from victims, families, and other institutions such as schools. Because the mandate of the criminal justice system is crime, and not simply child maltreatment, the mix of child victim cases coming to criminal justice system attention is very different from that coming to the attention of the CPS. Most of these criminal justice system cases (about 70%) involve a nonfamily perpetrator, and a little more than one half are youth-on-youth offenses (Finkelhor & Ormrod, 2000a). Very few concern simple neglect or emotional abuse. As mentioned earlier, the majority of these victims are teenagers (Finkelhor & Ormrod, 2000a). The criminal justice system also receives an estimated 400,000 reports per year involving juveniles who are victims of property crimes (Finkelhor & Ormrod, 2000b).

The path for child victim cases entering the criminal justice system is portrayed in the bottom of Figure 1. Again, the steps in the process are depicted in chronological order, from left to right. Unfortunately, many of the studies of case processing within the criminal justice system from the victim point of view are limited to cases of sexual assault or sexual abuse or other serious offenses. Much less is known about the experience in the justice system of juvenile victims who experience simple assault, crimes by other youth, and property victimizations.

### ***Criminal Justice Investigation***

It is standard practice for police to investigate reports of juvenile victimization; however, there is little research on the numbers, percentages, or circumstances related to police investigation. For this article, we analyzed data from 12- to 17-year-old victims from the NCVS, a national study that interviewed crime victims. In the wake of a police report, police made contact with juvenile victims in 92% of violent and 79%

of property crimes. They actually took a report (i.e., collected information about the crime) in 63% of violent and 72% of the property crimes in which they made contact with the victim.

If reports to and investigations by police lead to a suspicion of child maltreatment, police are mandated to report this to child protective services. Although we know of no data about how often this actually happens, it is supposed to be standard practice as police are mandated reporters by law.

### **Arrest**

An arrest occurs when police find probable cause that a person has committed the crime that has come to their attention, and they are able to locate and apprehend that person. However, police make an arrest in only a minority of juvenile victim crimes that do come to their attention. In our analysis of the NCVS, offenders are arrested in 28% of violent crimes and only 4% of the property crimes against juveniles that become known to the police. (The arrest rate is a bit higher, 32%, using police record data for all juvenile victim violent crime cases from the FBI's NIBRS system.) Juvenile victim crimes have somewhat lower arrest rates than adult victim crimes with regard to physical assaults, but higher arrest rates for sexual assaults (Rezac & Finkelhor, 2002). The overall low arrest rates reflect the limited resources that police have, the absence of information in many cases about offenders, particularly in property crimes, and the fact that many crimes are judged to be relatively minor in nature.

Arrests are more common in juvenile victimizations that involve more serious offenses, such as sexual assaults, aggravated assaults, and when there is a weapon involved (Rezac & Finkelhor, 2002). Arrests are less likely when the perpetrator is a stranger, which reflects the greater difficulty in locating the offender to complete an arrest.

An important feature of juvenile victimization, affecting arrests and other aspects of criminal justice activity, is the fact that a relatively large number of offenders against juveniles, somewhat more than 50%, are other juveniles (Finkelhor & Ormrod, 2000a). The institutions

and procedures of the juvenile justice system handle offenses committed by other juveniles. The procedures in this system are somewhat less formal and less public than those of the criminal justice system for crimes by adults. However, they do include analogues to trials, called adjudicatory hearings, and sentencing, called disposition hearings, at which victims may testify, as well as other features such as victim-offender mediation. (To keep Figure 1 relatively simple, we have excluded the specific steps of the juvenile offender justice system; Snyder & Sickmund, 1999, includes a diagram of that system.) Unfortunately, even though there is a large research literature on juvenile justice, the experience of juvenile victims whose offenders are processed in this system—for example, whether victims typically provide testimony in hearings—has been the subject of very little specific study.

### **Victim Compensation**

Most states have systems for compensating victims of crime for such costs as medical care, counseling, home and auto repair, and replacement of stolen items. Victims need to file applications, which are acted on by victim compensation boards. Victims may file claims at any point in the criminal justice process, although police refer many to such resources. The conviction of an offender is not required for compensation to be awarded (National Association of Crime Victim Compensation Boards, 2003a).

Nationally, of all recipients of compensation, 22% were child abuse victims (National Association of Crime Victim Compensation Boards, 2003b), and more than \$37 million were provided for services for child abuse victims. More than one half of this use was in California, which has an active record of using victim compensation to support psychotherapy for child victims. There are no data, however, on what percentage of eligible children applies. Nationally more than 45,000 claims were approved for victims age 17 and younger, although there is a widespread perception that many victims lack information about the availability of victim compensation funds.

### **Decision to Prosecute**

Either in conjunction with an investigation or after an arrest has been made, cases are referred to the prosecutor. The decisions about prosecution, which the prosecutor manages, vary considerably from jurisdiction to jurisdiction. In virtually all jurisdictions, the prosecutor evaluates the strengths and weaknesses of the case and the likelihood of success before deciding to proceed, sometimes after talking with victims and other witnesses. Prosecutors also take into account the potential negative effect of trials on child victims. In addition, in many jurisdictions, prosecutors bring the cases before a judge, in a preliminary hearing, and/or before a grand jury, to determine if there is probable cause to take the case to trial. In both situations, children may testify. If probable cause is not established, the case is dismissed.

Offenders may be arrested before or after the decision to prosecute. If police have made an arrest, cases are almost always forwarded to prosecutors for decision (Davis & Wells, 1996; Stevens, Fischer, & Berg, 1992). Once referred for prosecution, the proportion of child victim cases that move on to actual prosecution varies widely. Across 13 studies reviewed by Cross, Walsh, Jones, and Simone (2002), the proportion of cases in which charges were brought against the perpetrator ranged from 28% to 94%, with a mean of 66%. Rates differ considerably across prosecutors' offices, not only because of the resources they have to devote and the priority they give to juvenile victim cases, but also because of differences in what kinds of cases are

**Across 14 studies of prosecution of child abuse, the mean incarceration rate was 54% of convicted offenders, although these rates varied from 24% to 96%.**

These variables probably relate to the availability of evidence and children's capacity to talk

referred to prosecutors and at which point cases are screened out. Prosecution is less likely when child victims are younger than age 7 years, when children are related to the perpetrator, or when they suffer less severe offenses (Mennerich, Martell, Cross, & White, 2002).

about the abuse and testify in court. Cases accepted by prosecutors can later be dismissed by the grand jury, the judge, or prosecutors themselves; however, in the Cross, Walsh, et al. (2002) sample, an average of 79% of cases were carried forward without dismissal.

### **Pleading Guilty Versus Going to Trial**

If a case is accepted by the prosecutor and not dismissed, a disposition will be reached either by a guilty plea or by a trial. When a child victim case is carried forward without dismissal, the likelihood that the offender will plead guilty is high. According to a review of 19 studies of prosecution of child abuse, an average of 82% of offenders against children pled guilty to at least some charge (Cross, Walsh, et al., 2002), which is the about the same as the percentage of general violent offenders and very close to the 76% of general sexual assaulters who pled guilty. Rates were consistently high across jurisdictions, suggesting that prosecutors went forward with cases they believed to be fairly strong and were able to exert considerable leverage in negotiating about charges and sentences. Still, in about 19% of cases, prosecutors failed to obtain a plea, and the cases went to trial.

### **Sentencing**

Across 14 studies of prosecution of child abuse, the mean incarceration rate was 54% of convicted offenders, although these rates varied from 24% to 96% (Cross, Walsh, et al., 2002). There has been considerable media concern about whether offenders against juveniles receive unusually lenient sentences. An analysis of sentences from a national sample of offenders incarcerated in state correctional facilities found that some of the disparities in sentencing were explained by the fact that offenders against juveniles are less likely to be recidivists, less likely to use weapons, and less likely to be strangers to their victims, factors that are associated with sentence length (Finkelhor & Ormrod, 2001). There were still some sentencing disparities related to victim age even after controlling for such variables; however, they all related to of-



fenders against adolescents, who did tend to receive shorter sentences. There was no evidence of a leniency bias in favor of those offending against younger children (Finkelhor & Ormrod, 2001).

### **Summary**

Police investigate most reported juvenile victim crimes but make an arrest in only a minority. Prosecutors are referred the vast majority of these cases with an arrest; however, the proportion accepted by prosecutors varies from about one half to three fourths. Generalizing primarily from the experience with sexual assault crimes, cases tend to be dropped on concerns about evidence and children's testimonial capacities. Of cases carried forward, however, 80% end in guilty pleas. Sentences for offenders against young juvenile victims are not systematically lighter than sentences in comparable adult victim cases; however, they may be lighter for offenders against adolescents. Juvenile victims are thought to be a sizable proportion of those who receive victim compensation awards; however, many victims may still not be aware of these funds.

### **THE IMPACT OF JUVENILE VICTIM JUSTICE SYSTEM ON VICTIMS**

As just described, cases involving juvenile victims may pass through a number of institutions that are part of this juvenile victim justice system; however, not all of them have an immediate or direct impact on the juvenile victim. For example, an offender may be charged, plead guilty, be sentenced, and enter prison without a victim having to see anyone, appear anywhere, or even necessarily know about the events. This is not typical but is theoretically possible in cases in which there is considerable physical evidence or eyewitnesses to provide evidence and where the perpetrator cooperates with authorities.

Identifying the components of the system that have the most frequent and most consequential impact on victims is an important part of conceptualizing the juvenile victim justice system. Three particular impacts are salient: (a)

interviews and appearances that a child victim must make before officials, (b) family or life activity disruptions that are the consequence of institutional decisions within the justice system, and (c) direct therapeutic or reparative services that the child victim receives. These impacts can be charted in terms of their sequencing and their likelihood of occurrence, and this is an important adjunct to the overall understanding of the operation of the victim justice system. These impacts have been represented at the bottom of the system diagram (Figure 1) on a scale of victim involvement with the following symbols: circles for interview or testimony, plus signs (+) for family or life activities disruption, and triangles for service. The symbols appear larger when the probability of this event is high and smaller when it is only moderately common or less so.

The impact of the victim justice system is not confined to these three types of events. Some of the most consequential impacts of these processes may involve simple information that a victim receives, sometimes quite indirectly. For example, the victim may be told or find out that the prosecutor refused to press charges against the offender or that a perpetrator's attorney called the victim a liar, and this may be extremely distressing. However, these events and impacts are more difficult to classify and situate.

### **Interviews and Testimony**

Of all the events that occur that have an impact on a victim, the one with the highest probability is an investigative interview. If the victimization is reported to police, a police officer will likely interview the juvenile. If the victimization is reported to child protection, a CPS worker will almost always talk to the child, unless the child is very young. An interview with a police officer occurs in 92% of juvenile victim violent crimes reported to the police according to the NCVS, and an investigation, which typically involves a child interview, occurs in 60% of child maltreatment reports recorded by NCANDS. In some cases, there will be more than one investigative interview, which can occur as investigators try to gather additional evidence or when



another agency becomes involved (CPS referral to police or vice versa). Analyzing prosecutor case data from 1988-1991, Smith and Elstein (1993) found that in 96% of cases law enforcement interviewed children, and child protective services did so in 46%. When police and social workers both interviewed, however, 64% of the time these were separate rather than joint interviews, and children would typically have to "tell their story" again.

Trying to reduce the number of duplicative investigative interviews and their possible negative impact on victims is one of the issues that was most explicitly behind the development of multidisciplinary teams and Children's Advocacy Centers. It has also been an important motive behind the effort to videotape investigative interviews more routinely. The development nationwide of several hundred Children's Advocacy Centers, and other multidisciplinary team programs during the 1990s, may well have reduced the amount of duplicative interviewing, although more confirmation of this is needed (Simone, Cross, Jones, & Walsh, 2005).

As cited earlier, about 22% of victims of violent crime passing through the criminal justice system receive a medical exam. Victims of sexual abuse and physical abuse involving injury are more likely to receive such exams. These exams can be stressful; however, one study found it an equivalent stressor to providing testimony in juvenile court and twice as stressful as talking to a social worker, but not nearly as stressful as testimony in criminal court (Runyan, 1998).

Child victims may be interviewed at a number of subsequent junctures. Prosecutors may decide to interview children again even after the police investigation, while making the decision about whether to prosecute and trying to assess the strength of the testimony. As part of the process, a child may be asked to testify at a preliminary hearing or grand jury. Studies have reported that 12% to 31% of children in prosecuted cases testify at pretrial proceedings (Cashmore & Horsky, 1988; Cross, Whitcomb, & De Vos, 1995; Goodman et al., 1992; Smith & Elstein, 1993). If an actual trial is held, a child may testify again, often in conjunction with some prior meetings with the prosecutor. However, because so many cases end with guilty

pleas, relatively few children have to testify in trial court. Only 5% to 15% of cases involve a child victim's testimony at a trial or a court hearing (Berliner & Conte, 1995; Cashmore & Horsky, 1988; Cross, Whitcomb, et al., 1995; Goodman et al., 1992; Martone, Jaudes, & Cavins, 1996; Rogers, 1982). Finally, there are sometimes voluntary opportunities for a victim to provide testimony at a sentencing hearing (see e.g., U.S. Department of Justice, 1999).

### **Services**

Juvenile victims may also be affected by the provision of services. One of the specific goals of child protective service investigations is to provide services to promote the well-being of children who are victimized. As indicated earlier, about 59% of children who are maltreated are referred for services. Police or prosecutors as part of criminal justice system processing may also refer children to services; however, there is little systematic documentation about this referral pathway, and it is probably not as frequent a referral as with child protective services. Some specific child maltreatment services have clearly established beneficial impacts. For example, cognitive-behavioral therapy that specifically teaches children who are sexually abused and their families how to cope with the effects has shown advantages over standard care in several studies (Cohen, Berliner, & Mannarino, 2000; Cohen & Mannarino, 1997; Deblinger, Stauffer, & Steer, 2001).

### **Family Disruption**

The juvenile victim justice system can also have a major impact on child victims when it results in family disruption, that is, a major change in living circumstances or the household configuration. At an early point in the process, one form of disruption may occur if a child protection worker uses emergency power to remove an endangered child from his or her home. A disruption may also occur if police arrest and hold a parent suspected of a crime against the child. At later stages in the child protection process, a child may be removed from the home by the court either temporarily for fos-

ter care placement or subsequently as part of the termination of parental rights. Reunifications are frequently part of this process, when initial removal has occurred, and create other disruptions. The sentencing of an intrafamilial abuser to prison may also disrupt the family. Although all these events may have major impacts on children, they occur in only a minority of child victimization cases.

### **Implications**

This article described in general terms the operation of the juvenile victims justice system and what is known about the case flow within that system. The notion that there is such a system that often contributes to, but sometimes detracts from, the justice, safety, physical and psychological well-being of juvenile victims has important implications. We highlight some of them as follows:

1. More people need to understand the operation of the juvenile victim justice system in its entirety. Agency administrators and line workers need to know more about the workings of the other agencies in the system, and policy makers and researchers need better knowledge of the system as a whole. Such knowledge is important for planning policy and for managing individual cases, so the decisions in one part of the system can fully take into account actions that may occur in other parts.

2. Juvenile victims need the assistance of professionals who can orient, guide, and support them and their families throughout their involvement in the whole of the juvenile victim justice system. Professionals operating within Children's Advocacy Centers, or serving as court-appointed special advocates and guardians *ad litem* play such roles, but often only for certain limited aspects of the system process. It makes sense for the support to be much more comprehensive and continuous.

3. More consideration needs to be given to ways to integrate and rationalize the system as a whole. In recent years, considerable effort has been devoted to trying to coordinate certain aspects of the juvenile victim justice system. This coordination has been implemented, for exam-

ple, by conducting joint investigations or developing multidisciplinary teams for sharing information and decision-making. Even more dramatic forms of integration might be possible. For example, the application of criminal sanctions and decision making about child custody and service provision, and even the awarding of victim compensation funds might be centralized into a single judicial institution. The goals of such integration would obviously be to expedite the processes, coordinate the decisions, and minimize the impact on victims. Where separation between components of the system is necessary (e.g., between criminal justice and support interactions with families), better methods are required for assessing which cases belong where and for moving cases between parts of the system as needs change.

4. There is a need for much more information exchange among components of the system. A child can be involved with up to six or seven agencies and a dozen or more professionals during a course of intervention that can last several years. Information from one part of the system can have an impact on decisions made in other parts. The criminal investigation of an alleged perpetrator living in the home, for instance, may have a bearing on the decision by the CPS to place children outside the home. The need for confidentiality sets limits, yet information sharing between agencies often falls short because it is a secondary priority for busy professionals focused on their primary mission. Whitcomb and Hardin (1996), for example, found that communication between criminal and civil court staff on simultaneous proceedings regarding the same child was often minimal or nonexistent, which increases the risk that contradictory decisions would be made by the two courts. Where communication is present, it tends to occur in early phases and is often not maintained throughout the child's contact with the system. Case review and case-tracking systems are steps in the right direction; however,

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there is no central repository of information, and methods including new technology for insuring adequate information flow need to be developed.

5. The most important stages and transitions of the system need to be identified and receive priority in policy development. For example, the concern about child victims in criminal court concentrated policy attention for a long time on ways to mitigate the stress for children of having to testify in criminal cases. However, a systems-level analysis has demonstrated that only a small percentage of juvenile victims actually face the prospect of testifying in criminal court. By contrast, issues related to the stressfulness and efficacy of child protection interviews or medical examinations have the potential to affect many more children. At some other levels, answering questions about why arrests are not made in so many child victim cases or what techniques lead to guilty pleas holds the potential to bring far more justice for child victims than increased knowledge of effective trial procedures.

6. There needs to be greater attention to the fact that the juvenile victim justice system can be the entry point for needed services for thousands of victimized children. Agencies that provide services to children and families tend to think about their referral sources simply as other individuals and agencies and the identification of a need for service as something that happens case by case. However, when those referral patterns are considered as part of a larger system, which involves large numbers of children with service needs, new realities come into focus. For example, the demand on some children to talk about their victimization in many different places during an extended period of time suggests the need for system-wise human service professionals to provide children support throughout the process. The fact that many child victims with service needs related to trauma or inadequate care come through the system at predictable junctures suggests new places, time points, and programming for addressing children's needs.

7. More systematic and comprehensive information needs to be collected about the opera-

tion of the system and interrelationships among the components. There are tremendous gaps in information, and virtually no data collection effort that covers the entirety of the system. Several steps are needed. Pilot studies that track juvenile victims through all the steps and stages need to be undertaken. Data elements need to be added to current information systems that track interrelationships within the system. Thus, for example, the police data gathered within NIBRS could record whether a crime was referred to police from child protective services. CPS data might record whether an arrest was made. In addition, although it raises serious privacy concerns, if victims could be recorded in different systems with some common identifier, it might be possible to track victims through various databases to uncover the pathways through the systems.

8. Efforts need to be made to characterize and summarize in a comprehensive way how the juvenile victim justice system operates in different communities. Some key dimensions need to be delineated so that systems can be compared and contrasted. So, for example, comparative study may establish the criteria for systems that are integrated versus fragmentary, victim oriented, and so on.

Initiatives such as these may help to create a juvenile victim justice system more responsive to the needs of the thousands of victims who encounter it every year.

### ***The Child Protection System***

- Screening: About 67% of reports were accepted for investigation or assessment.
- CPS referral to police and prosecutors: Nationally, police were involved in more sexual abuse investigations (45%) than investigations about physical abuse (28%) or neglect (20%).
- Medical examination: The percentage of reported children who received medical exams was in 10% to 25% of all cases.
- Substantiation of child maltreatment: The substantiation or indication rate was estimated to be about 30% of all reports.
- Provision of services: About 59% of children who are maltreated received postinvestigation services documented through the child protection system.

- Court actions: Court actions were initiated for 18% of the substantiated victims of child maltreatment.
- Out-of-Home placement: Approximately 19% of those with a substantiated finding of child maltreatment were placed outside the home.
- Parental rights: About 66% of children exiting foster care are reunified with their families; parents' rights were terminated for about 11% of all those in foster care.
- All of the above rates for the child protection system vary enormously across states and/or communities, suggesting that there are substantial differences in practice.

### **Criminal Justice Investigation**

- Arrest: In juvenile victimizations that became known to the police, offenders were arrested in 28% of violent crimes and 4% of property crimes.
- Victim compensation: Of all recipients of compensation, 22% were child abuse victims, though it is not known what percentage of victims received compensation.
- Prosecution: Charges were filed in an average of 66% of cases referred to prosecutors, and 79% of cases were carried forward without dismissal.
- Guilty pleas: Defendants pled guilty in an average of 82% of cases, which is almost the same as the percentage of general violent offenders.
- Sentencing: The mean incarceration rate was 54% of convicted offenders, although these rates varied from 24% to 96%.

## **IMPLICATIONS FOR PRACTICE, POLICY, AND RESEARCH**

### **Practice**

- Greater numbers of individuals need to understand the operation of the juvenile victim justice system in its entirety so decisions in one area can fully take into account actions that may occur in other parts.
- Juvenile victims need the comprehensive and continuous assistance of professionals who can orient, guide, and support them and their families throughout their involvement in the whole of the juvenile victim justice system.
- Involved individuals and agencies must realize that the juvenile victim justice system can be the entry point for needed services for thousands of victimized children and can be utilized as such.

### **Policy**

- To expedite the processes, coordinate the decisions, and minimize the impact on victims, the system as a whole needs to be integrated.

- Much more information exchange among components of the system is needed.
- The most important stages and transitions of the system need to be identified and receive priority in policy development.

### **Research**

- More systematic and comprehensive information needs to be collected about the operation of the system and interrelationships among the components. There are tremendous gaps in information, and virtually no data collection effort that covers the entirety of the system.
- Efforts need to be made to characterize and summarize in a comprehensive way how the juvenile victim justice system operates in different communities.

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David Finkelhor is director of the Crimes against Children Research Center, codirector of the Family Research Laboratory, and professor of sociology at the University of New Hampshire. He has been studying the problems of child victimization, child maltreatment, and family violence since 1977. He is well known for his conceptual and empirical work on the problem of child sexual abuse, reflected in publications such as *Sourcebook on Child Sexual Abuse* (1986) and *Nursery Crimes* (1988). He has also written about child homicide, missing and abducted children, children exposed to domestic and peer violence, and other forms of family violence. In his recent work, he has tried to unify and integrate knowledge about all the diverse forms of child victimization in a field he has termed developmental victimology. He is editor and author of 11 books and more than 75 journal articles and book chapters. He has received grants from the National Institute of Mental Health, the

*National Center on Child Abuse and Neglect, and the U.S. Department of Justice, and a variety of other sources. In 1994, he was given the Distinguished Child Abuse Professional Award by the American Professional Society on the Abuse of Children.*



*Theodore P. Cross, Ph.D., is a research professor and director of the Multi-Site Evaluation of Children's Advocacy Centers at the Crimes against Children Research Center. Copyright © 2005 by the American Society of Neuroimaging Center at the University of*

*New Hampshire. He has numerous publications on system response to troubled children, including studies of prosecution of child abuse, outcomes of foster care, and organization of children's services. He teaches advanced statistics at Brandeis University and maintains a practice in clinical psychology.*



*Elise N. Cantor is a doctoral candidate in the Department of Psychology, University of New Hampshire. Major research interests include adolescent development, development in adulthood, and child maltreatment.*