

# When the Bough Breaks the Cradle Will Fall: Promoting the Health and Well Being of Infants and Toddlers in Juvenile Court

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## A B S T R A C T

Approximately one-third of the children in the child welfare system are under the age of six. These children are almost invisible in our juvenile courts. It is now clear from the emerging science of early childhood development that during the first few years of life children develop the foundation and capabilities on which all subsequent development builds. Living in emotional and environmental impoverishment and deprivation provides a poor foundation for healthy development. These very young and vulnerable children are exhibiting disproportionate developmental and cognitive delays, medical problems, and emotional disorders. However, there is growing evidence that early planned interventions can help. The juvenile court must take a leadership role in focusing on the very young child and learning more about risk, prevention, and early intervention in order to facilitate the healing process.

emotions are established, strengthened, and made permanent.<sup>2</sup> The impoverishment and environmental deprivation experienced by so many of these babies, including violence, lack of stimulation, substance abuse, poor nutrition, abuse, and neglect, have the potential to impair the healthy development of the brain. Major advances in the science of

early childhood development have provided an opportunity to understand more about babies and toddlers than ever before, including the importance of quality early life experiences and stable, enduring relationships for healthy development.

During the first five years of life, children develop the foundation and capabilities on which all subsequent development builds. These abilities include both remark-

## I N T R O D U C T I O N

The unprecedented increase of babies entering the foster care system creates both challenges and opportunities for judges in juvenile court. Approximately one out of every four children in foster care is under 12 months old.<sup>1</sup> As more and more babies enter into the child welfare system, the focus of the juvenile court must expand to include this youngest and most vulnerable population, children that, historically, have been largely ignored.

Most children enter foster care in the early years of life when brain growth and development are most active. During the first three to four years of life, the anatomic brain structures that govern personality traits, learning processes, ability to cope with stress, and

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able linguistic and cognitive gains and progress in their emotional, social, regulatory, and moral capacities.<sup>3</sup> Virtually every aspect of human development, from the brain's evolving circuitry to the child's capacity for empathy, is affected by the environments and experiences that are encountered in a cumulative fashion during the early childhood years.<sup>4</sup>

The multiple environmental, biological, and relationship related risk factors to which children in the child welfare system have been exposed create an unusually high degree of vulnerability. The resulting harm to the child's development can be permanent. The degree of harm itself, and the number of young children affected, are striking. The health profile of children in the child welfare system and in foster care is cause for alarm: These children have three to seven times more chronic medical conditions, birth defects, emotional disorders, and academic failures than children of similar socio-economic backgrounds.<sup>5</sup>

When health, behavioral, and emotional problems are ignored by parents, foster parents, the juvenile court system, and others who come in contact with these children, the risk for more severe difficulties and even psychopathology increases over time. Further, there is considerable evidence that children who are abused and neglected are at much higher risk for poor outcomes than other children.<sup>6</sup> The adolescent runaway who drops out of school and engages in self-destructive behaviors, who refuses to follow any rule, law, or court order is the source of the greatest challenge and frustration for the seemingly helpless judge. And yet, these behaviors rarely begin when the child enters the court system as an adolescent. It is urgent that the juvenile court judge serve as the catalyst to lead the multidisciplinary community effort to focus on the needs of maltreated infants and toddlers and to encourage development of early childhood initiatives to intervene earlier so that children in the child welfare system can be diverted from that pathogenic path.

### How Early Interventions Can Help

The good news is that planned interventions can increase the odds of favorable developmental outcomes.<sup>7</sup> Infants and toddlers are often very responsive to the effects of early intervention because of the developing brain's ability to compensate.<sup>8</sup>

Ramey and Ramey (1998) emphasized, "Interventions that begin earlier in development and continue longer afford greater benefits to the participants than do those

that begin later and do not last as long."<sup>9</sup>

In the Abecedarian Project begun at the Frank Porter Graham Child Development Center in North Carolina in the early 1970s, children with preschool intervention showed significantly higher academic achievement up to at least 10 years after the intervention ended than the comparison group. They were also less likely to be retained or to be placed in special education.<sup>10</sup> Data from the Perry Preschool study begun in Ypsilanti, Michigan, in the 1960s are consistent with the findings from the Abecedarian study. These programs are often cited by the public and policymakers both because positive outcomes have held over time and extensive cost-benefit analyses have been conducted. The Perry Preschool study examined preschoolers coming from low-income families from 1962 to 1965. Children were randomly assigned to either a high quality preschool program or a comparison group that was not enrolled in a preschool program. Follow-up of the study children at age 19 showed higher graduation rates and college attendance, improved rates of employment and self-support, and reduced rates of crime and teen pregnancy among the teenagers who had attended the program as preschoolers compared with those who had not.<sup>11</sup>

From the perspective of the juvenile court, the Chicago Child-Parent Center Program is even more significant in that this program compared low-income children who received early preschool intervention and those who did not in relation to later juvenile crime. They found that, relative to the preschool comparison group, children who participated in preschool intervention for one or two years had higher rates of high school completion, more years of completed education, and lower rates of juvenile arrest, violent arrests, and school dropout.<sup>12</sup> Consistent with the findings from the Abecedarian Project, preschool and school age participation were associated with lower rates of grade retention and special education services. It is important to note that both programs emphasize the importance of follow-up programs in schools to help support the students over time.

For young children who have the misfortune of entering the juvenile court system in their first few years of life, preventive interventions are often too late. These children have little chance for healthy development without the opportunity for immediate intervention that is put in place with some consistency over time.

Compelling and consistent evidence from both

research and clinical work indicates that to develop into a psychologically healthy human being, a child must have a relationship with an adult who is nurturing, protective, and fosters trust and security.<sup>13</sup> Such a relationship may be an unattainable luxury for dependent children, who are used to not having their most basic needs met and who learn early they can not rely on an adult. Selma Fraiberg, a pioneer in the field of infant mental health, believed that interventions with young children can be particularly effective because of the inherent flexibility in young children. Interventions with dependent children initiated when they first appear in juvenile court may have a considerable probability for success. Fraiberg stated that because the infant's rapid development acts as a strong force for progress and maternal self-esteem, with these interventions, "It is a little like having God on your side."<sup>14</sup>

The early relationship between parent and child supports healthy development when the parent is tuned into the child, can read emotional cues, and can respond appropriately in a timely fashion. Under such circumstances, the child will develop positively in multiple domains, including communication, cognition, social-emotional competence, and moral understanding.<sup>15</sup>

While the children whose cases fill the dockets in juvenile court have not been the beneficiaries of healthy relationships with their caregivers, judges must recognize the developmental, social, and emotional harm that can result from an unhealthy attachment, a harm that, without intervention, can affect future relationships as the child grows into an adult. Children in the child welfare system have been beaten, raped, ignored, and abandoned by the people who were supposed to love and care for them the most, and can not rely on their families to provide a foundation for healthy development. They have not been nurtured by a loving parent or caregiver who has served as protector, provider, and helper, a relationship that every baby needs. The early childhood development literature emphasizes the crucial importance of this initial relationship for healthy development and the maladaptive results when that foundation does not exist. By understanding and recognizing the basic needs of maltreated babies, the juvenile court itself can provide the first step in the healing process. Unfortunately, too frequently, in the court's enthusiasm to perform its legal duties to these children and their families, it sometimes overlooks the necessity to examine the ramifications of the abusive or neglectful caregiving relationship, thus missing opportunities to heal the child. Indeed, the judge may have an opportu-

nity, perhaps the last one for this vulnerable child, to focus on healing in the process of adjudicating the case.

### **An Infant Mental Health Perspective for Juvenile Court**

To help our most vulnerable children, juvenile courts must begin to make infant mental health a priority. Infant mental health has been described as the ability of children from birth to five to grow, develop, and learn in a way that enhances their social and emotional health, both as individuals and in relationship to others.<sup>16</sup> At least one-third of the children in the child welfare system are babies and toddlers under the age of six.<sup>17</sup> At present, infants are entering the child welfare system in record numbers, often as a result of prenatal exposure to alcohol and other drugs. It is not unusual for these infants to be born, prematurely, to mothers who did not receive prenatal care. Prenatal and perinatal risk factors represent a host of latent and manifest risk factors that influence subsequent development. In fact, several studies have found an association between prenatal and perinatal complications and later delinquent or criminal behavior.<sup>18</sup>

No other industrialized nation in the world accepts so many young children into foster care. In the United States, roughly 1.5% of all urban children under the age of one enter foster care. The placement rate increases to 5% in high poverty urban areas.<sup>19</sup>

Despite the extreme risk to children in the child welfare system, they seldom appear in court and do not have a voice because they cannot articulate their needs and desires in words. As such, juvenile courts do not conduct assessments and evaluations of babies and toddlers based on a lack of understanding about their ability to communicate and the ability of the court to understand. There is a common belief that babies are not really harmed. If they are, it is assumed that they will not suffer long-term injury but will instead "grow out of it." In fact, this assumption is quite wrong.

Child development research shows that babies four months old or younger can experience depression, babies as young as six months old can suffer long term effects from witnessing trauma, and babies as young as one month old can sense whether or not his parent is depressed or angry and is affected, therefore, by his parent's mood.<sup>20</sup>

Like most adults, judges and juvenile court personnel are not aware that early trauma and other developmental risk factors to which babies and toddlers in the

child welfare system are disproportionately exposed can result in long term harm. There is much research and clinical evidence indicating that when infants and toddlers are exposed to violence and trauma, either through witnessing domestic violence in their homes or experiencing abuse and neglect, their very sense of basic trust is threatened. As a result, they may experience adults as harmful, which can derail their normal course of development. The juvenile court may not be aware that the impact on infants and toddlers and the extent of the harm can be determined by careful observations of the child with a caregiver. Observations of these children reveal that, even in infancy, many appear uninterested in adults, unable to play, and unable to explore the world around them. Many of the children exhibit signs of traumatic stress, including withdrawn behavior, fearfulness, anxiety, aggression, disorganization, and sadness. These young children may not be able to achieve basic developmental tasks such as language development, toileting, and attachment. It is often the case that parents and caregivers do not understand these children whose needs are significant and complex. Often the parents themselves are overwhelmed, traumatized, substance abusing, and victimized which leads to problems in the parent-child relationship.<sup>21</sup>

Under these conditions, parents or caregivers may not have the emotional resilience to be available to their children and to hear their distress. Therefore, it is even more important for juvenile court judges to understand that even if babies cannot speak in words, their actions, behaviors, and emotions can communicate volumes to a clinician. Juvenile court judges also need to know that interventions exist to ameliorate the harm, even for babies and toddlers. In fact, the earliest intervention can be the most effective, especially in this population of children at great risk for psychopathology from the abuse and neglect.

Perhaps the most compelling argument for judges is the recent emerging research indicating that babies and toddlers in the child welfare system suffer enormous cognitive and developmental delays when compared with the general population of children. While the data are limited, there is emerging evidence that one-half of the children in foster care exhibit a developmental delay approximately four to five times the rate of developmental delay found in children in the general population.<sup>22</sup> Courts must intervene to learn how babies and toddlers have been affected by the unhealthy parent-child relationship and the environmental factors that

influence the child's development. Courts must be able to put in place therapeutic interventions to counteract and ameliorate the maladaptive influences on the life of the baby. The juvenile court can be the most effective prevention tool in the justice system, especially if courts seize the opportunity to focus on the needs of babies and toddlers.

### **Initiatives in Miami-Dade Juvenile Court**

Few jurisdictions provide court-based and court-created prevention and intervention opportunities for children and families. However, groundbreaking prevention and early intervention work is being done through a collaboration between the Miami-Dade County Juvenile Court and its early intervention partners. Several initiatives have been undertaken, the first being a systematic examination of the developmental functioning and treatment needs in maltreated and violence-exposed young children.

The PREVENT (Prevention and Evaluation of Early Neglect and Trauma) initiative of the Dependency Court Intervention Program for Family Violence, a national demonstration project in the Miami-Dade Juvenile Court funded by the U.S. Department of Justice, VOWA Grants Office, has developed a program to evaluate all infants, toddlers, and preschoolers who are adjudicated dependent by the court. During assessment sessions in a playroom setting, the parent and child are observed and videotaped engaging in a number of tasks during play interaction. Reciprocal bonding and attachment is evaluated as well as the developmental and cognitive functioning of the child. What has been learned is that by observing these children with their caregivers and allowing them to speak through their actions, behaviors, and emotions, it is possible to understand a great deal about their development, their needs for safety and security, and the quality of their relationship with their caretaker. Preliminary data from PREVENT reveal that an astounding number of these very young children have difficulties at the basic level of thought and speech development. More than half of the maltreated infants, toddlers, and preschoolers seen so far through the PREVENT program suffer from significantly delayed cognitive and language development, placing them at serious risk for learning problems, difficulty expressing their thoughts and needs to others, and a lack of ability to understand their world. After the evaluations are completed, referrals are made by the court for early intervention programs and for therapeutic interventions

with the infants, toddlers, and caregivers.

A second major initiative was undertaken in 2000 to expand infant mental health services and capacity in Florida when the Miami Juvenile Court was chosen as one of three intervention sites. State funding was allocated to the juvenile court to establish an Infant and Young Children's Mental Health Pilot Project (IMH) for maltreated infants and toddlers. Additional sites were established in both Pensacola and Sarasota, Fla., but the Miami project is the only one of its kind in a juvenile court setting. The pilot program includes parents and toddlers in the dependency court system who participate in an evaluation and a dyadic therapy program for 25 weekly sessions with a trained clinician. Therapeutic interventions and parental guidance are provided to help the caregivers learn new ways to play reciprocally with their young children, to understand their non-verbal cues, and to follow their lead supporting healthy development. For many caregivers, the parent-child interactive play is uncharted territory as most of them did not have very positive experiences in their own childhood. Extensive assessments are completed on the parent and child to evaluate the quality of their interactions as they begin and end the program. Analysis of these evaluations is ongoing. A second year of the IMHPP funding was awarded and will extend the opportunity for continued implementation of the model and outcome analysis.

Concurrent with the clinical IMH pilot activities, the Miami Juvenile Court is implementing the Miami Safe Start Initiative for maltreated infants and toddlers. Funding for this program was awarded to the Eleventh Judicial Circuit in Miami from the U.S. Department of

Justice, Office of Juvenile Justice and Delinquency Prevention, to expand the community's ability to provide intervention services to young children who are the victims of, or who are exposed to violence in their homes and/or communities. As a result of this initiative, the first Juvenile Court/Early Head Start program for maltreated toddlers is being established in Miami. A pilot group of court-referred young children, who otherwise would go underserved in early intervention programs in the community, is enrolled in the comprehensive Early Head Start program during the day and concurrently receives dyadic therapy with their primary caregiver.

### **Conclusion**

It is imperative that the juvenile court focus on healing the child, not only on adjudicating the case and rehabilitating the family. That important focus must logically begin, and can be most effective, with the youngest children in our courts. Judges must recognize just how vulnerable infants are and the degree of harm that they have already sustained before entry into the child welfare system by virtue of the unhealthy parent-child relationship that caused the family to come under the jurisdiction of the juvenile court. Judges must seek multi-disciplinary expertise to develop early childhood initiatives that elevate the profile of infants and toddlers and to concentrate on their unique needs. The science of early childhood development can inform our work. It is clear from the early childhood literature that well-designed and implemented child-oriented interventions can be effective in enhancing the cognitive, social, and emotional development of young children. Let juvenile court be the place where healing begins.

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