

Consequences of Child Abuse Allegations for Foster Families

A Report of a Symposium

Cosponsored by:
Health and Human Issues, University of Wisconsin–Madison
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A major function of the Department of Health and Human Issues consists of providing continuing education opportunities for professionals engaged in a wide range of human service activities. The topic addressed in this report, the impact of child abuse reports on foster families, is an area which is consistent with the earlier work of this office. Given the opportunity to further the study of this pressing topic, I was privileged to develop a proposal for this symposium.

The logistics of this particular project were different from the usual Health and Human Issues workshop format. Examining the impact of child abuse reports on foster families requires investigation from diverse perspectives. Thus, with this 1989 Symposium, our office developed a new and experimental process of learning. We invited selected professionals and other "experts" to share their specialized knowledge of the foster care system with one another. We hope that this Symposium can be a model for future information-gathering projects of this kind.

The presentations that follow represent an excellent cross section of concerned individuals working within the foster care system. These individuals represent groups whose perceptions of the problem of abuse allegations against foster parents differ dramatically.

As I heard the presentations I was reminded of the many reasons for misunderstandings that are inherent in foster care work. Frequently, the parenting methods and value systems of foster parents differ from those of both the biological parents and the social worker. In the foster care system, the individuals and institutions engaged in joint parenting efforts, are in effect "co-parents," when, under any other circumstances, they would be unlikely to deal with one another at all.

Foster children, for their part, have learned to survive in homes that are very often upset and upsetting. The skills that they use to cope with these difficult environments may influence how they settle into their foster placements.

Most human service workers concerned with foster placement see themselves as professionals in working with people, although they may not have time to do their work as well as they would like. They feel the pressure of finding homes, of presenting the child in the best possible light and maintaining placements that have been made.

When charges of abuse and neglect by foster parents are made, the varied values and expectations of the usual parties to foster placement are superseded by the rules of the legal system.

Considering these different perspectives, I am impressed with the presentations included in this report, and the determination, demonstrated by the participants, to find a workable solution to this complex problem. The presentations represent different groups and professions who seldom have the opportunity to meet in such a way: foster parents, agency administrators and staff, attorneys and academicians.

This publication reflects the time and contributions of many people. We hope that it will prove useful as a source of information and as a stimulus to study more in this and related areas.

Ed Buxton

FOREWORD

This monograph documents a unique meeting on an important child welfare issue—the consequences for foster families of agency responses to allegations of child maltreatment in foster homes. The 1989 Symposium was conceived as a potential means of defining the issue more completely in order to assist joint efforts toward better solutions. For the first time, participants representing diverse groups involved with foster care met to consider the issue from their perspectives.

The monograph is intended to provide to a wider audience the views presented by persons in differing foster care roles regarding abuse allegation consequences for foster families. These may serve as a starting place for more thorough consideration of the issue. It also provides a description of the Symposium's design, implementation and evaluation for possible use by those interested in developing a similar meeting. A set of related materials is included.

This report will be distributed in Wisconsin to county social service agencies, the Bureau for Children, Youth and Families and the Wisconsin Federation of Foster Parent Organizations (WFFPO) and to state-level foster parent associations and human services departments in other states. It is our hope that the material may assist in seeking constructive resolution to the issue of abuse allegations involving foster homes.



I wish to thank a number of people for their contributions to the Symposium and its report. Carol Sokolich, MSSW student, was an invaluable assistant throughout the project and also served as a small group facilitator. Lu Rowley, Waushara County Director, and Zann Liljegren, MSSW student, also served as facilitators in the small groups. Prof. Bob Bright of Community Dynamics in the UW Cooperative Extension provided pre-symposium consultation on nominal process in non-heterogenous task groups. Catherine Ratte and Linda Wheeler, MSSW students, provided followup with presenters and others; analysis of the symposium evaluation and checklist, respectively, service to the WFFPO in regard to the issue, and more. Christina Munzer, a UW senior English major, and Catherine Ratte assisted with editing. I also thank the presenters and participants for their time and contributions and attorney Frank Vasquez for providing a video-tape segment and written material, although he was unable to attend the Symposium. All these efforts are gratefully acknowledged.

Rosemarie Carbino

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PERSPECTIVES

Opening Remarks *Rosemarie Carbino*

Welcome. We are delighted that you can be here. You have been invited to participate in this Symposium on the basis of your experience and expertise regarding foster care. It is an exciting prospect to spend today working together with you.

Focus of Symposium

Our focus for the day is on the consequences for foster families when agencies respond to allegations of child maltreatment in foster homes. Our objective is to seek a mutual definition of the issue and consider approaches to solution for this unique area of concern. We ask that you stay on focus as you undertake this work.

The twenty-five participants here today represent diverse perspectives on foster care—as foster parents and foster parent association representatives, as State or county social service administrators, supervisors and staff, as attorneys familiar with child welfare services, and as social work educators and trainers. We have a common interest in the well-being of children and families.

Plan and Materials

The plan for the day is outlined in the agenda in your packet of materials. (See Appendix.) This morning we will hear six presentations: an overview of the issue plus views from the perspectives of State social services, law, county social services and foster parents. In the afternoon, we will meet first in small groups to delineate problems and potential solutions. Then we will come back as a whole to consider our composite picture of the issue and to recommend any further action.

Time is important today; in a sense, it is our only adversary. We will be observing clear time limits as we

hear presentations, small group discussions from various perspectives, engage in discussion of problems and potential solutions, and consider together our composite picture and recommendations. We have worked to provide both structure and freedom within time constraints.

For your information, your packet also contains some Wisconsin child abuse and neglect statistics that I have calculated from the most recent available data (1987) and a bibliography. Though a great deal has been published nationally on child abuse, you will note there has been little published on our subject to date.

Introductions

Let me introduce to you briefly those persons in addition to myself who will be presenters: Carol Behm, a longtime foster parent and former President and Board Member of the Wisconsin Federation of Foster Parent Organizations (WFFPO); Linda Hisgen, of the Bureau of Children, Youth and Families; Susie O'Neil, foster parent, trainer, and current WFFPO Board member; Henry Plum, attorney; and Mark Quam, Director of Winnebago County Social Services. Each of them has been asked to focus on the consequences for foster families of agency responses when child abuse and neglect reports involve foster homes.

Let me also introduce group facilitators: Carol Sokolich, MSSW student at the University of Wisconsin-Madison who is serving as an assistant on this project; Lu Rowley, Waushara County Director; and Zann Liljegren, MSSW student.

Report of Symposium

As you know, a report of this Symposium is planned. It will include a description of the design, process and outcomes of this day, the presentations made today, and

some related materials. We hope the report may serve as stimulus to further discussion and initiatives. We intend to make it available to Wisconsin counties and foster parent groups, state human service agencies responsible for foster care, and to other interested foster parent associations and agencies.

Context for the Symposium

This Symposium is taking place at a point of increasing attention to the issue of the impact on foster families of abuse/neglect allegations. The first public forum in the U.S. on the issue was a set of presentations and workshops during 1985-88 at conferences of the Wisconsin Federation of Foster Parent Organizations. In July, 1987, the International Foster Care Organization Conference (IFCO) at Leeds, England, provided the first international program on the subject.

In October, 1988, consortium of Minneapolis agencies and the Minnesota Foster Parent Association put on a landmark conference—devoted wholly to the issue of

abuse allegations against foster homes. We are pleased to have as our guest today Ms. Joan Riebel, Executive Director of Family Alternatives, Minneapolis, the agency that spearheaded this successful effort. This year, from April to June, regional conferences—modeled after the Minneapolis meeting—will have been held in three U.S. cities for regional audiences. There are plans for subsequent meetings and workshops. At the 1989 IFCO Conference at Ypsilanti, Michigan, this August, I will be reporting results of my survey on what U.S. agencies and foster parent organizations are doing in response to the issue. It appears so far that only a very few organizations have taken action to ease the impact on foster families of agency response to abuse allegations.

This Symposium is the first effort anywhere to bring together persons with diverse roles and diverse perspectives on the issue of abuse allegations to work jointly towards defining the problem and approaches to solution. It is my hope that our work here today will prove a helpful starting point towards positive change.

An Overview of the Problem

Rosemarie Carbino

Introduction

Through my work over a number of years with the Wisconsin Federation of Foster Parent Association, I became involved in the problem for foster families of how agencies respond to child abuse allegations against foster homes. My interviews with foster parents reported for abuse/neglect and my survey of Wisconsin foster care coordinators reinforced the impression that foster homes involved in abuse allegations are experiencing unintended and unnecessarily damaging handling by agencies. These impressions have been further confirmed in workshops and conferences here and in a number of other states.

For the sake of brevity, I will not repeat here my findings, which are summarized in the reading materials sent to you prior to the Symposium. (See Appendix.) I will be highlighting some issues and suggesting some directions toward solutions. My presentation will cover these: my focus and position in dealing with abuse allegations against foster homes; the risk level for child abuse reports in foster family care; aspects of foster family status that affect risk for report and abuse; foster family experience once abuse is reported; agency perceptions of the situation; barriers to resolution; and potential approaches to solution.

Focus and Position

My comments are intended to include all reported foster families from the point that they learn of a report through all related consequences. I take the position :

- That all foster families reported for abuse/neglect are entitled to constructive service both in their own right as families and as a valuable, diminishing resource;
- That how foster families are treated consequent to a child abuse report matters for foster children, since foster children are members of foster families;

- That foster family well-being and foster child well-being are complementary, rather than competitive, and
- That the process for agency response to reports of child abuse in all foster homes needs to be as non-damaging as possible to foster family members, including foster parents, own children and foster children, whether or not abuse is substantiated.

Risk for Child Abuse Reports in Foster Care

The issue of abuse allegation consequences for foster families is not very noticeable at first. Reports of abuse in foster homes involve around 1% of all reports nationally. For example, national information that includes foster families shows a rate of foster home involvement between ½ and 1% (Russell and Trainor, 1984). In Wisconsin, the proportion is about 1/2% of total reports annually. Wisconsin 1985 statistics indicated 160 foster homes reported out of 30,014 reports, about one-half of one percent. Similarly, 1986 statistics show 201 foster homes reported out of 32,223 total reports, slightly over one-half of one percent (1986 and 1987 Wisconsin Child Abuse and Neglect Report.) So the problem looks tiny, indeed.

However, the *proportion* of foster families reported in a given year is not tiny. Looking at the data in a new way, using an estimate of 3000 active foster homes, those 160 reported foster homes were 5.3% of Wisconsin foster families in 1985. In 1986, 201 reported foster homes constituted 6.7 percent of foster families; in 1987, 310 reported foster homes were about 10% of foster families.

In addition, there is some evidence that foster families may be reported proportionately more often than other families. For example, a Maricopa County, Arizona, review of foster home abuse over a two-year period from 1976-1978 indicates that 7% of the foster care population of foster children were reported abused, compared to 2% of all county children for the same time period (Bolton, Laner and Gai, 1981). Iowa 1987 data show a report rate higher than the rate for the general population: 74.38 per 1000 children in foster homes compared to 31.06 per 1000

children statewide (personal correspondence, Iowa Department of Human Services Child Protective Services Unit, April, 1989). In 1985, abuse/neglect reports against Wisconsin families (natural, adoptive and stepparents, siblings, grandparents and other relatives) other than foster families totaled 24,167. Using an estimate of 643,000 Wisconsin families with children under 18 in 1985, abuse reports involved about 3.8% of families, compared to 5.3 % of foster families. We cannot be certain enough of population estimates and abuse report data to know if foster families are, indeed, reported more often than other families. We do know that a noticeable percentage of Wisconsin foster families--in 1985, one in 20; more recently, one in ten--experiences abuse report.

Why are Foster Families at Risk to Be Reported for Abuse/Neglect?

We have the riddle of a family with a stable income, often a married couple, who are community-connected, are often homeowners, experienced as parents and who have not been reported for abuse/neglect of their own children, with a license to parent, at high risk to be reported for abuse. The riddle can be "solved" by looking at factors beyond individual and family functioning.

- Foster families are held to different, higher, standards for what will be considered abuse in their homes.
- Foster family life is a "fish bowl"--the family is highly visible in the community and held up to public scrutiny.
- Consumers of social services--foster children and their biological relatives--are familiar with child abuse report procedures and effects.
- Agencies are concerned about their legal liability regarding placed children.
- Foster children are often "high risk" both in terms of the responses they may elicit from others and in terms of the abuse risk they pose for other children.

I believe that it is not possible to prevent abuse reports by training foster parents (though training and support are desirable for reducing abuse) since factors beyond family functioning may influence why a report is made. Further, though we are not focusing here on abuse in foster care, I believe that it will not be possible to "screen out" "abusers" in foster care through the intake

study (beyond the basic sound foster home study that is desired in all instances). "Good" foster homes can and do become involved in abuse. Because abuse situations in foster care may be interactive with the nature and/or numbers of the placed children and youth and also with the support and assistance provided to the foster family, a usable screening tool would need to assess not only (a) the foster family, but also (b) the child, and (c) the agency.

It is likely that reports of abuse in foster family care are going to continue to occur. It makes sense to take this as a given and to plan ahead for it in ways that will reduce damage to foster families from agency responses.

Foster Family Experiences Once Abuse/Neglect is Alleged

Foster parents who have been through the experience of child abuse report and agency response to that report describe a set of very difficult experiences with the agency. Uninformed about the ramifications of abuse allegations against anyone in a foster home and unprepared for how their agency will subsequently treat them, they do not understand what occurs and are traumatized by it. They report sudden interventions by the agency, even if there has been some time delay between receipt of report and agency action; cutoff of agency communication and frustration in getting anyone to talk to them; sudden removals of all foster children, whether or not there is evidence of risk to them, and often when own children are left in the foster home; prohibition of any contact or communication with these children; long periods of "not knowing" what is happening; lack of a clear final disposition and, for situations of unsubstantiated abuse, lack of "clearance." In addition, in situations where abuse has not been substantiated, foster parents may face subsequent agency failure to return removed children; agency hesitation to place other children; and attempts not to renew license on pretexts unrelated to the allegation.

Foster parents experience shock, isolation, a sense of community stigma, powerlessness and a sense of unending vulnerability. And they grieve the losses of children and of identity as foster parents. Since foster parents have tended to see child abuse report as a

stigmatizing accusation, they are apt to keep their trauma private and to further isolate themselves in their communities. If no abuse/neglect has occurred, they are outraged at the unfairness of their treatment because they are, as they put it, "not guilty."

I would point out that abrupt and insensitive treatment of the children and/or adults in any foster family by a child welfare agency is not "fair," whether or not abuse/neglect has occurred. And not good practice, either.

Agency Response

When child abuse/neglect is reported against foster homes, child-placing agencies have problems and perceptions of the situation that are different from those of foster parents. Agencies must, of course, fulfill their responsibilities to protect children by taking abuse reports seriously, acting to assess the situation and to intervene as needed. As regards their relationship to their foster families, I would characterize many agencies at this time as unaware, constrained and concerned.

With the exception of staff who are directly connected to foster families, agency staff appear to be *unaware* of the extent of trauma to foster families from the agency response to child abuse reports. There are a number of likely reasons for this. (a) There is a primary concern for child protection, which is as it should be. (b) There is a concern for agency protection from legal liability in abuse report cases. (c) Workers may assume, erroneously, that if the intent of agency policy on protective intervention in foster homes is moderate in nature that the effects on families will likewise be moderate. (d) Also, the vocabulary of child protection does not take into account the experience of those who are reported, here, the foster family.

The objectivity and neutrality of the language belie the trauma, so foster parents and agency workers may be unable to understand each other. For example, a child abuse/neglect "report" is understood by child protection staff to be a report, the accuracy of which will be determined by investigation. To foster parents, this is an "accusation" of abuse. Another example would be the provision in child protection legislation that the identity of the reporter be protected; foster parents may

experience this as not being allowed to know their "accuser." A third example involves a different understanding of the categories of findings: where the report is found to be, for example, "unsubstantiated" or services are "not indicated," foster parents view the report as "false," "untrue." The strong emotional impact expressed in ordinary language is lost entirely in the neutral language of child protection, reinforcing a lack of agency staff awareness of impact of their actions.

Where staff are aware of the trauma involved, they may feel *constrained*---constrained by the requirements of child protection law and evidence-gathering procedures; by agency policy; by concern about agency and/or personal liability. Currently, there is little agency policy that specifically considers the unique area of abuse allegations involving foster homes. Where some policy and related procedures are specified, they often have not been based upon standards for good child welfare practice with families. Nor are there currently guidelines at State level for what appropriate agency response might be when foster homes are reported for abuse or neglect. These omissions leave agency staff without support and guidance for constructive intervention.

At the same time, agency staff members are *concerned* about their foster care program. They are concerned about losses of some foster homes that were considered valued resources, about increased problems in recruitment of foster homes, and about their deteriorating relationship with the local foster parent association as a result of abuse allegation responses. In addition, they do have concern for the reported foster family, including its own and foster children.

Barriers to Resolution

Since there is no disagreement that children must be protected and that damaging impact on foster families is an unintended outcome, it appears that early barriers to resolution are those of definition and lack of understanding. I would list these as barriers: (1) a lack of awareness of the extent, the nature and the sources of trauma for foster families when a report of abuse/neglect is made; (2) an assumption that all current agency procedures are necessary to child protection; (3) a lack of guidelines for policy and intervention based

solidly on good child welfare practice principles; (4) an incomplete picture of the situation by the primary parties---agency, including both foster care and protective service staff, legal advisors to agencies; and foster parents. Not surprisingly, it appears that one sector's solutions are another sector's problems: agency solutions to child protection and liability concerns create problems for foster families reported for abuse/neglect. To lessen agency resistance to altering those current "solutions" that induce other problems for foster families, the concerns and perceptions of all parties must be taken into account in searching for solution.

Potential Approaches to Solution

Let me begin by saying I do not have solutions. It is my hope that we can begin a process of definition of the issue that will suggest avenues of solution to be arrived at jointly over time. I would recommend these actions to agencies and foster parent groups at local, area and state levels:

- Joint exploration, including foster parents and legal advisors, of the consequences for foster families when foster homes are reported for child abuse or neglect.

- Review and re-evaluation against solid child welfare standards of all agency responses once abuse or neglect has been reported and revision of policy and practice to make these responses more constructive.
- Provision to all foster families of extensive information on what is likely to occur when they are reported and why.
- Also, provision to all foster families, and particularly to reported foster families, of information on the resources available to them for agency communication, support, ongoing service, legal information and advice. These can help to ease trauma while still protecting children and are much needed. If the agency cannot or will not provide these, it does not mean that foster families do not need them. It means that there should be a continuing joint effort to find ways to provide them.

If There is Good News...

The good news is that these unintended effects on foster families can be eased, in part by the provision of services and resources mentioned. I believe that joint effort from concerned persons such as yourselves to explore the problem and to consider solutions has the potential for real and positive change.

A State Perspective

Linda Hisgen

I would like to briefly discuss my perspective, as the Chief of Services at the Bureau of Children, Youth and Families, on the issue of the impact of abuse allegations on foster families.

First, there are some basic facts that influence the State's perspective on this issue:

1. There are both well intended and malicious reports made of suspected child abuse and neglect. Some of these reports are made about foster families;
2. Children are physically, sexually and emotionally abused and neglected. Some perpetrators are foster parents and/or members of their families;
3. Children, alleged perpetrators, family members and others close to them, experience pain and anguish during a child protective services investigation;
4. A prime responsibility of the state and our colleagues in the county agency is to assure that children are safe and to provide services to children and their families when abuse or neglect has occurred or when there is a risk that it will occur;
5. Wisconsin's child welfare system is not a perfect one. In addition to these basic realities of the child welfare field, it is also important to remember that, in more instances than not, foster families both are perceived by service providers as different and are, indeed, different from the biological family. Foster families are service providers, part of our child welfare team. They are not our primary clients; their foster children are.

Wisconsin's foster care system has been neglected in many of the following ways: there has been insufficient funding to reimburse foster parents as well as to meet the needs of over-worked and under-trained social service staff; there is a lack of quality homes, which

results in the use of poor homes and overloading good homes; there is a lack of tools for decision-making in the licensing and placing of children in staff homes; and there is a lack of training resources for foster parents.

In some respects, problems are exacerbated by the fact that each year the Bureau of Children Youth and Families invests a lot of time, energy, and money into producing an annual report on child abuse and neglect in Wisconsin. This report comes out a year and a half later than the actual gathering of the data included in the report, and the data included are gathered in a completely subjective way by numerous workers in Wisconsin's 72 counties.

Because of the huge caseloads of most child protective service workers, there are sometimes as many as 60-120 case files sitting in their drawer on which there has been no documentation, no completion of the reporting forms that produce the data that produces the annual report. In addition to the number of reported cases that never get investigated, and therefore do not get included in this report, there is a lack of objectivity in the cases that do get reported to the Bureau.

Child protective service workers are left to classify cases as substantiated or unsubstantiated. This is not the same as guilty or not guilty; it is a completely subjective decision left up to the judgement of each individual social worker in each town in each of Wisconsin's 72 counties. Thus, there is nothing very scientific or pure about the data we are receiving for these reports.

Given the failings of Wisconsin's foster care system discussed above, it is logical to ask, what are we, state agencies, prepared to do to remedy this situation?

First, and probably something of which I and my staff are most proud, in the sense of the whole child protective services division, is that we are deeply committed to investing resources, and have succeeded

in convincing Governor Thompson that what we should be doing, is implementing a Child At Risk Field (CARF) decision-making system throughout the state of Wisconsin. This is important because of the large number of counties in Wisconsin (72) and because of the large number of child welfare workers in the field.

The CARF system will ensure that children in all Wisconsin counties will be treated in a uniform manner.

It is a system that looks not at maltreatment, which is the way that we have been working for quite some time and which has forced social workers into the roles of "cops" and lawyers, but rather, a system that focuses on determining the conditions that put children at risk and directing services at reducing those risks.

Second, we need to work to institute an assessment system for foster families and adoptive families. We will continue to fight for adequate rates, mandated training and other service system supports to enhance the foster care system.

Third, we are advancing foster care licensing rules that will raise the standard from the current licensing standards that exist.

Fourth, we feel deeply committed to the fact that corporal punishment by foster parents will not be allowed. We are now in the process of developing administrative rules for the kinds of information that should be provided to foster parents when children are placed by an agency.

Finally, we are fully prepared to assist in the development and circulation of whatever materials may come out of today's meeting to assist agencies and foster parents to prepare for the possibility that there may be a child protective referral for foster families. We look forward to the other products that come out of today's meeting and we will try to be of assistance in dealing with this very complex problem. I do want you all to remember that some of the same issues that come up for the foster parents who are under investigation for abuse allegations, come up for every single other family that is reported to the child protective services system.

Legal Relationships in Foster Family Care

Henry J. Plum

Defining the legal relationship between foster parent and foster child requires an analysis and understanding of the relationship between natural parent and child. This analysis will include an evaluation of the following relationships: first, the legal relationship between child and natural parent; second, the legal relationship between the state and child; and third, the legal relationship between the state and foster parent. An analysis of these three relationships provides a basis for understanding the role of the foster parent.

The legal relationship between natural parent and child is defined in terms of three rights: legal custody, guardianship and residual parental rights. Legal custody is defined under Wisconsin Statute Section 48.02 (12) as follows:

“Legal custody” means a legal status created by the order of a court, which confers the right and duty to protect, train and discipline the child, and to provide food, shelter, legal services, education and ordinary medical and dental care, subject to the rights, duties and responsibilities of the guardian of the child and subject to any existing parental rights and responsibilities and the provisions of any court order.

This definition clearly indicates that a parent having legal custody of a child has both a right and a corresponding duty to provide certain basic necessities to that child. The parent who does not provide these basic necessities, such as adequate food, care, clothing, shelter and medical care, violates the duty of legal custody.

Similarly, a parent with legal custody has the right and duty to discipline one's child. However, the parent also has a corresponding duty to protect that child. If the parent over-disciplines a child, resulting in the child sustaining injuries, then the parent has violated the duty to protect.

Violation of the duty to protect may also result in criminal sanctions or custody being transferred from the parent for violation of the child abuse laws. Legal guardianship, the second right and duty the parent has to the child, is defined under Wis. Stat. S. 48.023 as follows:

A person appointed by the court to be the guardian of a child under this Chapter has the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:

1. The authority to consent to marriage, enlistment to the U.S. armed forces, major medical, psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.
2. The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child but not the authority to deny the child the assistance of counsel as required by this chapter.
3. The right and duty of reasonable visitation of the child.
4. The rights and responsibilities of legal custody except when legal custody has been vested in another person. *The parent, as legal guardian, has both the right and duty to make major decisions affecting the child's life.* When a parent fails to carry out the responsibilities of the guardian, then that parent may face criminal sanctions and the risk of losing the authority of guardianship.

The third right and duty that a parent has to a child may be identified as residual parental rights. This concept embodies any legal benefit that may accrue to the child by virtue of the parent's biological relationship to them, such as the right to inherit social security benefits, veteran benefits, and other benefits.

An examination of these concepts—legal custody, guardianship, and residual parental right—clearly establishes that a parent with these rights has an affirmative obligation to carry out these duties to the child. Further, if any other person or agency is appointed by the Court to act as legal custodian or guardian, then that person or agency has these same duties and responsibilities. Therefore, if the state or county agency intervenes on behalf of a child and, as a result of that intervention the Court transfers legal custody or guardianship to that state or county agency, those responsibilities that are normally vested with the parent through legal custody or guardianship are then transferred to the state or county agency. In this situation, the agency has the duty under legal custody to provide care, food, clothing and protection to the child. If these responsibilities are not carried out, then the agency faces the same liabilities a parent faces when the responsibilities under legal custody or guardianship are violated.

The state or county agency carries out its responsibilities to children in its care by contracting with specific individuals, i.e., foster parents through a licensing procedure. The relationship between foster parent and agency is based solely on this contractual agreement. The agency contract requires that a foster parent provide certain services to the child in return for monies paid. If the state or county agency has legal custody or guardianship of the child, the county agency could authorize the foster parent to act in the agency's capacity, since it is agent under the contractual agreement, to make certain decisions affecting that child. However, the agency is still responsible for the child.

The agency also has the authority to limit the foster parent's authority as the agency deems appropriate and necessary. Since the relationship of the foster parent to the child is contractual, the rights and responsibilities of the foster parent to the foster child are limited by the conditions of the contractual and policy agreement that exists between the agency and the foster parent. The foster parent has no greater right or legal interest in the child than the agency. The foster parent's rights are further limited by agency policy as reflected in the licence agreement. Consequently, the authority of the foster parent is limited in the following ways:

(a) The authority that the state or county agency possesses by virtue of a transfer of legal custody or guardianship, and;

(b) Whatever limitations the state or county agency may place in the contextual agreement that exists between the foster parent and the agency.

Wisconsin law has further limited the rights of the foster parent as reflected in the following areas:

1. Foster parents are not considered legally interested parties under Wis. Stat. S. 48.27 in actions under Chapter 48 concerning children who are alleged to be delinquent or in need of protection or services. This means that a foster parent is not entitled to notification of the hearing nor may the foster parent participate in the hearing. This position was stated by the court in the case of *Bingenheimer vs. DHSS 129 Wis 2d 100 (1986)*.
2. The foster parent is specifically not a legally interested party and is not entitled to notice in a termination of parental rights proceeding under Wis. Stat. S. 48.42 (2) (d). This section specifically excludes the foster parent as having a legal interest and right to participate in such a hearing.

What rights, if any, does a foster parent have? Several areas must be examined to answer this question:

1. A foster parent's authority and duty to a foster child is contained in the contract that exists between the foster parent and the county agency. The duty of the foster parent is to provide adequate food, care, clothing and proper supervision to the child. It is assumed that the foster parent then is entitled to adequate funding for reimbursement of said necessities provided to the child;
2. In the event there is an anticipated adoption and the child has resided in a prospective adoptive home that has been licensed as a foster home, Wis. Stat. S. 48.64 provides that the prospective foster parent has a right to administrative hearing concerning any removal of that child prior to the adoption. *Thelen vs. DHSS, 143 Wis. 2nd 574 (ct App 1988)*;

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3. A similar right to an administrative hearing was identified in the case of *Bingenheimer vs. DHSS*, 129 Wis. 2d 100 (1986). Under this case, the foster parent has a right to an administrative hearing concerning the removal of a child from the home even though the placement of the child cannot be affected by the hearing outcome;
 4. A foster parent under Wis. Stat. S. 893.035 is not considered a parent for purposes of liability under this specific provision of the law. However, a cause of action may exist where a foster parent negligently fails to carry out his or her contractual obligations to provide adequate supervision and care for the child.

In summary, the legal relationship of the foster parent to the foster child is limited. The relationship differs from that of the natural parent in that the natural parent-child relationship is based on the inherent duties and responsibilities to that child. The foster parent-child relationship is based on a contract. Therefore, the authority and responsibility of the foster parent in Wisconsin is limited by statute and by contractual agreement. Additional rights or authority could only be created through legislative action.

A County Agency Perspective

Mark Quam

My perspective is that of a county social service agency director who has been a supervisor of protective service workers and whose own parents were foster parents. My presentation reflects these three sets of experiences.

It is timely to focus on the impact of abuse allegations on foster families, and it will be even more timely in the next few years. Throughout the 1980s there has been a rapid rise in sexual abuse referrals of children, especially younger children. Ten years ago we received referrals for such acts as improper touching; today we receive referrals for cases involving forced intercourse with five-year-olds. This trend--increasingly severe abuse of younger and younger children--is causing changes in the foster care system.

Another trend in Wisconsin is a new emphasis on family-based services with the goal of assisting children to successfully stay in their biological families. These two trends merge into one another. For instance, in 1987 Winnebago County averaged around 140-150 placements per month. In 1989, we averaged 100-110. We have improved family-based services in an effort to reduce the number of children in placements. At the same time, however, abuse referrals to the department, especially those of a sexual nature, are increasing.

In a fairly high percentage of cases referred to our department, it is not practical to provide family-based services to the family. But at the same time, we are experiencing a trend toward fewer out-of-home-placements of teenagers. We are increasingly using intensive in-home family therapy and/or partial day care to help teens succeed. However, for the five-year-old sexual abuse victim, when it is unclear who the perpetrator is, we are encountering increasing number of circumstances that require both the child's removal from the home and placement in foster care. The trends I am noting are fewer placements of teens and an increasing number of placements of younger kids with severe allegations.

Winnebago County has the same policies that many counties have. If one is clearly able to determine the perpetrator, and one is able to remove the perpetrator from the home--so that the child can remain in the home. This is the first course of attack. However, it does not always work that way. There may be reasonable evidence of sexual abuse, but no clear picture of who the perpetrator is. The child protection worker may end up taking action to protect the child, all the while struggling to find out how the abuse occurred.

Out-of-home placement for young children who have been sexually abused puts foster homes increasingly at risk. Younger children who have been through the trauma of sexual abuse, and who have seen that trauma result in separation from their family, are vulnerable to even more emotional turmoil, the effects of which may come out in the child's foster home placement.

We see this in cases of inappropriate sexual behavior by youngsters that gets acted out in the foster home and that may result in a second or third referral for the child. It is very difficult to investigate and determine that there has been additional abuse, for instance, by a teen age perpetrator in the foster home. One has to question whether the problem is behavior that is carried forth from the family of origin.

Attorney Henry Plum explains the types of liability issues that agencies face in relating to foster homes. Liability issues are even more complicated in abuse allegations involving younger children because children are not very good witnesses as they are easily intimidated and confused during cross examination and cannot explain their own motivations or behavior.

Other presentations briefly discuss the types of feelings, reactions and emotions that foster parents may have in relation to abuse investigations. I would like to reemphasize that these are the reactions that nearly everyone has as part of an abuse allegation experience. The experience tends to be shocking and embarrassing

and it tends to make the accused feel angry. Foster parents accused of abuse need an outlet for their anger. This need is not unique to foster parents.

What is unique is that foster parents have no outlet for these feelings. Agencies must develop procedures that will allow them to conduct a proper investigation while still having some sensitivity to prior relationships with the foster home.

In the county in which I work we have been through experiences with foster parents who have been reported for abuse. Some investigations that are inconclusive, or even in which the abuse is not substantiated, result in angry and very disappointed foster parents. It is our responsibility, as county workers, to figure out how to work through that. How can we salvage what is worth salvaging in that family? We decided to negotiate what we could with foster parents, excluding the portions of this puzzle that simply could not be talked through. We have done a first draft, internally, of a policy that we would like to set up as a contract or an agreement between our agency and the foster parents. The agreement outlines agency policy in cases of abuse allegations against foster parents.

By state law and for good social work practice, there are things that one has to do in the course of an investigation: the worker has to arrive on time and must not provide information on the allegation to the alleged perpetrators. That is a normal investigative procedure and it is terribly shocking to foster parents. Good child protective procedure does not suggest that you give advance notice on what the allegation is. That is not how you find perpetrators.

There are elements of the agencies' investigative procedures that will always be difficult for foster parents, but there are some steps agencies can take to make the process easier. One can work to clearly explain all procedures to foster parents so they understand and know the "rules of the game."

An aspect of agency policy during investigations of alleged abuse that is negotiable with foster parents is the level of support and relationship between the agency and the foster home during and after the investigation. There is a norm within many counties that, when an abuse allegation is reported, the social services department essentially shuts off contact to the

family during the course of the investigation. There are some defensible reasons that this occurs. The agency does not do this to intimidate the foster parents, but, rather, to protect agency staff. It is trying to make sure that department staff are not torn on their loyalties and are not providing information to foster families that would harm the investigation.

Agency needs can be modified so that workers are able to provide a neutral level of support on an on-going basis for the foster family when they are under that kind of stress. This would require more training of agency staff and foster parents, and it would take more communication, but it is workable versus what our county is guilty of now--simply not conversing with anyone when an investigation is going on. In some cases, foster families may have had a relationship with an agency for twenty years, and to suddenly not get a phone call returned or for a worker to say, "I can't talk to you until the investigation is done" is very upsetting. Our ethic has been to make sure we do a good investigation, but there is room for some negotiation and we are working on that currently.

It might be worth mentioning that there is a whole set of other circumstances going on for the biological children of foster parents at the time of an abuse investigation. These circumstances are not primary, but they do have an impact on the investigation. Most foster families do a pretty good job of trying to bring people together and create a family feeling. However, if one is in a family and one's own parents are the foster parents, and whichever new face at the supper table that night comes up with an allegation against one's parents, there is certainly some feeling of resentment against that person.

How can agencies help biological children in foster homes get through abuse investigations? Foster parents have their own emotional reactions to the investigation of which their children are not ignorant. The biological children are aware of the tension and anger in the house, and they notice if their favorite social worker's name has been changed to a curse word. Providing support services to biological children is an area that can be negotiated in relationships between the county and foster parents and that does not require a huge investment of money.

It is not a surprise to anyone that foster homes are at great risk for abuse allegations. For experienced workers and foster parents, we know that, even with our emphasis on family-based services, the types of children coming into homes today are a lot tougher and a lot more involved than they were just five years ago. *The Milwaukee Journal*, Spring, 1989, series on the cocaine epidemic in Milwaukee and the types of kids coming into care there, give one a sense of the problem today's kids face.

Today's foster children are a lot different from when I was a child growing up with a typical foster care child whose mother had died and whose father did not feel like he could have the child at home. We have come a long way from that. Today children who are placed in foster care suffer from fetal alcohol syndrome, emotional disturbances, attention deficit disorders, mental retardation, and so on. These are high risk children. They are difficult to deal with, and they are the type of children who, in any setting, are likely to promote angry and emotional responses from the care giver, responses that could develop into some physical abuse. Foster homes are taking a tougher population than ever and agencies have not done much in the last twenty years in terms of training foster parents to prepare for the challenge. We should expect that things will get a lot worse if we do not prepare foster parents better for today's foster kids.

In my county, we have been trying to work around the issue of how to get adequate funding to secure decent care givers in homes. This is a problem because there is no funding coming from state or federal governments that zero in on this problem. We attempt to use trade-offs of our children in institutional care by using foster care instead. The difficulty in doing this is that one needs a reasonably high level of institutional spending to justify this trade-off. If an agency has few or no children in institutional care, it is probably not going to work. But, if your agency has, say, twenty-five children per month, there is a way to target children, stating a particular child can make it in a foster home, and that the agency is willing to make the investment of \$3500 a month in that home. To do so, one needs to secure the right home, the right services, training the right level of staff, and so on. The problem is that, for the vast majority of foster homes, this is not feasible. If the child is not at imminent institutional risk, one may

not have the option of substituting funds allocated for institutional care for foster care.

The emotional reactions in social service staff are also part of what is fueling the controversy surrounding the investigation of abuse allegations against foster families. For example, the famous Deshaney case alleging that the agency did not protect a child in his natural family arose here in Winnebago County. [Editors note: *Deshaney vs. Winnebago County Department of Social Services*, 489 U.S., 109 S.Ct. 998 (1989).] Cases like these create both terrific anxiety and a sense of responsibility to public employees because of the terrific press coverage, embarrassment, accusations, filthy phone calls and letters that go on and on, and that create a terrific sense of "Don't let me down." If a worker places a child in a foster home and an allegation of abuse occurs, not every social worker can handle that very well. As that first allegation comes in, a social worker may react negatively toward the foster home. This potential response is something that can be worked through, but we need to create a training package or an opportunity for people that are in child protective services to have an experience that helps prepare them for this possibility. The other thing that happens is that agency staff may feel conflict about what their proper role is. Most counties have agreements worked out for independent investigations of foster parents by neighboring counties as a way of avoiding this potential problem.

We have not worked out very well what is the home county's role in trying to have both a reasonable relationship and a reasonable level of support for the foster parents during the investigation. Many of these issues are related to the emotions of the social worker who may be feeling conflicted, angry, and afraid this is an area of training that does not require a huge amount of money but that could improve the system dramatically.

We have not seen any significant funding growth through the 1980s. Some of the issues that I have mentioned concerning relationships and emotions can be worked on with reasonably small financial investments, but there is really no way to get around the bottom line of the need for expanded funding. In the foster care system today we have tougher children with more difficult backgrounds, and we have got to begin to look at foster parenting as a profession with a salary

level that is comparable to other professions. Until such point and time that we do, we will continue to see hurt feelings, struggles about relationships, abuse and neglect because we are taking one of the poorest paid portions of the foster care system and subjecting it to the most extreme stress. Until we get to that bottom line issue, we are working around the problem instead of working at it.

A Legal Perspective On County Intervention

Frank Vasquez

To begin to understand the county's duty in investigating acts of child abuse and neglect, one must look at Wisconsin Statute Section 48.981(3) subsection (c). The Statute states that within twenty-four hours of receiving a report of abuse and/or neglect, the county department, in accordance with authorities granted under other places in the Statute, initiates a diligent investigation to determine if the child is in need of protection or services. This investigation is conducted in accordance with the standards that are established by the State Department of Health and Social Services. The investigation includes an observation of and/or an interview with, the child, as well as a visit to the child or the child's usual living quarters/ home and an interview with the child's parents, guardian, or custodian.

In the past, when workers were not able to see/identify a child's injuries, this allowed for more problems to emerge in an already complicated investigation. Now there are guidelines instituting the best approach towards a child abuse investigation. If investigators are able to determine that the child has been the victim of abuse and neglect, they can take the child into custody as prescribed in Wis. Stat. S. 48.08 or 48.19.

When someone calls and reports child abuse or neglect, the person talks to an intake worker who records the report, making sure that it complies with what is needed for a definition of abuse and neglect under Wis. Stat. S. 48.981. The county then commences a diligent investigation. In cases of allegations of abuse against foster parents, another county, department or welfare agency is sent to investigate. It will usually be a neighboring county and they will investigate the report because they are not directly liable for the foster parent's acts.

Foster parents are paid by the state or by the county; therefore, they are an agent of the county whether or not their contract declares them to be one. Wis. Stat. S. 48.981(d) states that the word "agent" includes, but is not limited to, a foster parent or other person given custody of a child, or a human services professional

employed by a county department, to govern a child. One must understand, however, that once a child abuse and neglect report has been filed against a foster home, foster parents fall into a different category. If there is a liability that is attached to the county, agencies want to make sure that, when an allegation is brought against foster parents under their employ, the county agency is not seen as an active participant.

Once the report has been made and the investigation is underway, a social worker, often joined with a law enforcement officer, will come to the foster parent's home or to the foster child's school in order to talk with the child. If the child is located at the school, after talking with the child, the social worker and officer will proceed to the foster home to meet with the foster parents and discuss the issue with them. An investigation is conducted by way of interviews, doctor's reports and observation of the child.

At any point during the investigation, the investigating team may decide that there is evidence of abuse. If that is the case, the child, or children, is/are removed. Investigations of abuse are risk assessments in that the worker and the officer have to determine risk to the child. Initially they may not remove the child; they may not have enough information; hence, the investigation would continue. The investigation might last two hours or six months. It all depends on what type of abuse, if any, has been committed.

Once the investigation has concluded, the county or investigating agency makes a determination: is the allegation founded or unfounded?

Founded means that the investigation has provided information and evidence that abuse and/or neglect has occurred. Once an allegation of child abuse has been proven, affirmative action will be taken and the child will be removed. The county has the duty to place the child in a wholesome, safe environment. This process works if an investigation concludes in findings of abuse. Problems arise in investigations that prove that abuse allegations are unfounded.

There are two ways of looking at the unfounded condition. First, the investigating team can determine that the injury the child sustained was accidental and did not involve abuse and/or neglect: i.e., a schoolyard injury. Second, the team may conclude that an unfounded allegation that cannot be proved also cannot be disproved.. Here lies the problem.

Natural parents are not an agent of the county, but foster parents are, and the county is responsible for children within its custody. Therefore, the county is required to make sure that foster home placements are safe.

What does one do with the child in these situations? What will the results be for foster parents of the county's actions? The county could let the child remain in the home. They cannot prove that abuse and/or neglect did not happen, nor can they prove that it did happen. However, if the county decides to retain the status quo, they proceed at some level of risk to the child. The risk is not as great as if the abuse allegation had been proven conclusively, but there is still some level of risk.

If there were evidence of abuse, the child would simply be removed from the home. Once the child is removed, however, collateral issues arise. One might question whether or not removal is proper care of the child considering the child's need for stability and permanence. There is the possibility of psychological trauma to the child when removed from one home and placed into another.

If the county removes the child from the home, even though the allegation has not been proven, because there is concern for the welfare of the child, there are possibilities of problems arising relative to the foster parent's relationship with the county. When there is no proof, one way or the other, of child abuse, it may be slanderous conduct to abruptly remove the child.

Foster parents also suffer a potential loss of income and the loss of being employed as a foster parent. What is the just cause behind the county's removal?

Constitutional law seems to indicate that foster parents have a property right in their job. I do not know what the implications of this law are for foster parents. I have not researched this, but it could be an issue for counties. They could be sued for improperly removing a

child, and not only slandering but causing financial problems and/or damages to the foster home.

On the other hand, the child might not be removed. If the child remains in the foster home and is re-injured, the county has additional liability problems. There is a standard of care imposed on counties to provide safe and proper homes for children. Once there has been a report of child abuse, the foster parents have now been placed on a warning and the county has a higher duty to make sure that a solid investigation takes place in order to prove that the foster home is appropriate.

Removal does not necessarily answer all these problems. There are other ways of completing an investigation, but the higher standard of care places the county at greater risk in case a second abuse occurs. If there is a second abuse, and it is proven, the immediate argument is going to be, "You should have known better."

A recent case representing this scenario is *Deshaney vs. Winnebago County*. A county has a constitutional right to protect the child only if the child is in custody of the county. If the child is not, then he/she is in care of his/her natural parents or guardians and this situation assumes a different constitutional burden relative to what we owe, in terms of care, to that child. However, once a county has possession of that child and the child is placed in a foster home, it has interfered in that child's life and therefore has an affirmative duty to protect that child. This is where liability issues arise. [Editor's note: *Deshaney vs. Winnebago County Department of Social Services*, 489 U.S., 109 S.Ct. 998(1989).]

Views of a Longtime Foster Parent

Carol Behm

I am going to start with trying to answer the question: why were foster parent organizations the first to recognize the devastating consequences of child abuse allegations against foster parents?

In the past, foster parent organizations have had trouble getting much enthusiasm or response from more than a few foster parents on many pressing issues. Even the issue of liability insurance did not move people to action. We suspect this lack of response is because most foster parents feel that they have nothing to lose if they did get sued. Few foster parents have more than a home with a mortgage and a lunch bucket.

But now, the issue of the impact of abuse allegations on foster families, and the way that social services handles investigations, is motivating an ever larger number of foster parents to get involved. Now, we are talking about something they all have: their good name, and they do not want to lose it.

When foster parents are accused of child abuse, we find that we are considered guilty until proven innocent. And even once our innocence has been proven, the community often thinks we must be guilty or the social service agency would not have taken our children away. It has been said that the number of incidents of reported child abuse is above average in the case of foster parents, and I say, "That's no wonder!" We are given the hardest to handle, most complicated, children and told to care for them as our own. Children placed in foster homes today are usually the most emotionally disturbed, sexually active, drug using/abusing and learning-disabled kids around. They are removed from their own homes because of their parents' inability or unwillingness to handle these problems. Some children placed in foster homes come from an abusive background; it is an important reminder to the outsider that many of the problems of foster care placement come with the child.

We have little or no support services from the placing agency or from our community. We are watched by all our neighbors, perhaps because they are dubious of our supposed ability to handle children better than they can,

perhaps because they mistakenly look at fostering as a way to make money.

But even given all these factors, many foster parents would be the first to say, "Any foster parent that does abuse a child, should have their foster child(ren) removed and their license taken away."

What we, including the Wisconsin Federation of Foster Parent Organizations (WFFPO), are very concerned about is the way social service agencies have chosen to handle most allegations of abuse and the effects of agency practice on foster parents. Many abuse allegations are against foster parents who have worked in the foster care system for many years. The shock and indignation foster parents feel at the realization that the agency, with which they have worked so well and so faithfully for many years, would even think such a thing rocks their whole being. Many foster parents refuse to even fight charges of abuse, feeling, "If that's what they think of me, I'm through!"

In this process we lose not only a good foster parent, but also their friends, relatives and others with whom they may come in contact. If agencies think they have a hard time recruiting good foster parents now, wait until a few more people hear of the way foster parents are treated during abuse allegations.

Foster parents are angry because their children are removed without any advance notice or explanation. Most foster parents are angry because they find out that, not only will the agency they have believed in and worked with for all these years not protect them, but in many cases the agency personnel will not even talk to them. Foster parents are left to ask, "With whom can we talk?" "Whom do we tell?" Being accused of child abuse is not something that one can go out and discuss with just anyone. When foster parents start fostering, agencies tell us, "You are part of a team," "We consider you very important in the treatment of this child." But in reality, we are only part of the team until something happens.

How can we combat this problem? I am sure we cannot stop every charge of child abuse against foster parents, nor would we want to! What must happen is that agencies must:

1. Define policies as to how abuse allegations will be handled, and foster parents must understand these policies fully before accepting children for placement;
2. Employ someone who will work with foster parents during investigations of abuse allegations, being their friend, knowing what they are going through and keeping them informed as to what is going on with the agency;
3. Inform foster parents, before placement, if the child has been in other homes, the reasons why the child was removed, and whether or not this is a pattern of behavior (many children, especially older ones, are "onto" the system; they know that all they have to do is holler "wolf" and they will get moved);

4. Investigate potential foster parents thoroughly before placement of any child in a home. No matter how desperate the need, screening must be done to protect the foster parents the agency already has.

In addition to these steps agencies must take, foster parents must constantly document all incidents that may be construed as child abuse or neglect. Foster parents must also continually keep in touch with the placement agency, even though many of us do not see a worker for months.

We know that the need for foster parents is critical but, if agencies think the need is bad now, wait a few more years until the word gets out about the poor treatment of foster parents and then see the shortage. Changes must be made immediately in the handling of abuse allegations. As an organization in which the goal is to help protect foster parents and help make their job of providing good foster care easier, the WFFPO will continue to push for fair play and oppose any unfairness that we see.

Observations of a Foster Parent and Trainer

Susan M. O'Neill

I would like to address the problem of abuse allegations against foster parents from my perspective as both a foster parent and a trainer. I acknowledge that allegations of abuse are a very real problem for foster parents and I challenge anyone who thinks otherwise to spend time listening to those who have gone through the process.

As a foster parent trainer, I have come to accept the fact that the majority of new foster parents are pie-eyed optimists. A feeling of faith and trust in humanity runs through their veins. As a foster parent, I realize that it is necessary for us to be optimistic if we are to deal with the types of children we are asked to parent. How else could we continually encourage these children, giving them that second, third, and fourth chance? The "Catch 22" of the situation is that it is difficult to get foster parents to accept the possibility of being at risk of being accused of child abuse.

It is hard for a foster parent to perceive a climate of mistrust when a basic goal of fostering is to cultivate trust in those we care for. Most attempts to educate newly licensed foster parents about the possibility/probability of abuse allegations fall on deaf ears. Most have come to foster with an idealistic picture in mind and the reality of abuse allegations has no place in that ideal. Hopefully, as abuse allegations receive more publicity, new foster parents will be more open to the training provided on this issue.

In my dual role I have come to realize that first and foremost the worker and the agency exist to service the foster child. If ever a situation arises in which the concerns of the foster child differ from the foster family, the child's concerns will prevail. This is a very difficult concept for many foster families to accept. It is also a great source of pain when an allegation takes place.

The social worker with whom they have shared laughs, tears, and, perhaps, personal information is now so closely allied with the child and the agency that the worker seemingly does not care if the foster family exists. The isolation felt by the foster family is

heightened by the increased activity surrounding the foster child. It is the nature of the foster care system that the needs and concerns of the foster child will preoccupy social service workers during an investigation of an abuse allegation.

As a foster parent who has had the privilege of being closely connected with an agency, I have had the opportunity to observe a system of mixed messages. It is my opinion that this system contributes to some cases of abuse allegations, and may, in fact, add to the confusion during the abuse investigation proceedings. The unfortunate aspect of mixed messages is that the foster parents never realize that a double meaning or hidden agenda exists in the investigation process until it is too late for clarification to be of help.

Some of the mixed messages I have observed are as follows:

"Our agency does not remove children unless there is proof of abuse or neglect."

Many foster parents believe this means they are considered innocent until proven guilty and will be treated accordingly. They cannot understand the agency conducting an investigation without informing them of the charges against them. They also do not understand why the social service agency would remove their foster children when they have not been given an adequate chance to state their innocence nor kept informed of the investigation process. Most experienced foster parents are aware of the internal policies in the foster care system and know that when push comes to shove, their children may be removed before an investigation is completed and/or before guilt can be established; but newer foster parents are shocked by this.

"If you ever experience a problem and you need me, I'll be here. Just call."

More often than not, the foster care coordinator or the licensing worker will pass this message on to new foster parents. Usually it is a sincere message. What is

not relayed, however, is that this holds true only as long as the staff of the agency remains unchanged. As personnel change, so does the agency philosophy and mode of operation. It is not uncommon for agency personnel to change or for a whole agency to restructure without notifying its foster parents. Conceivably, the individual who made the original offer of assistance might change jobs and his/her replacement might not hold the same philosophy. Or the agency philosophy might change so that support may not be available, or worse yet, not be encouraged.

"We respect your wishes and will only place with you the types of children you are comfortable with."

When foster parents are licensed, they are required to "checklist" the number of children they feel they can adequately care for and also the ages and behaviors they feel capable of dealing with. I have seen time and time again where license stipulations have been ignored. Age restrictions, behaviors, and numbers of acceptable placements have been altered in a phone conversation to accommodate the "emergency placement." When an agency asks a family to take a child they have already said they would rather not parent, and when the family accepts that child, the stage has been set for probable negative consequences.

Although it is true that foster families have the right to deny any placement, few foster parents turn a child down, especially when the agency indicates that they have no other homes from which to choose. Due to the shortage of homes, foster parents are accepting children they never before would have considered. Often these placements, meant to be temporary until a permanent home can be found, extend for weeks or even months. The luxury of matching foster children to foster families seems to be a thing of the past. The original contract designed for the good of both foster child and foster family becomes null and void in order to supply a needed bed.

"Along with our agency's written policy, we encourage our foster parents to use common sense and good judgement."

There should be no allowance for common sense or good judgement. Common sense and good judgement vary from person to person. Both are affected by community mores and ethnic traditions. One must

consider that as ethnic groups differ and as families differ, so do the ideas of what is discipline and what is abuse. There is no one common scale of judgement. If a written policy on discipline and abuse is available, it and it alone should be the sole guideline. If there is no written policy, one should be written. It is unfair to foster parents and agency personnel when disciplinary policies are not written and readily available. Clarity in policies is essential to eliminate the potential for liability on anyone's part.

"My foster homes are great because my foster parents have everything under control; they rarely call me."

If the agency and foster parents are to work in a preventive vein regarding abuse allegations, they must dispel the old mentality of "quiet phone, quiet home." A case cannot be judged by the number of contacts that a foster parent initiates. There have been cases I have had that required daily worker contact in order to advocate for the child or to ask assistance in stress situations. We all know that, just because a worker does not hear from the foster parents, everything is not necessarily fine.

In the past, foster parents were considered the expendable members of the foster care team. If one home closed, the agency found another. Foster parents who were too vocal or made too many demands were considered troublesome and found themselves with fewer placements. Foster parents were trained not to make waves. Many did not want to be labeled as pests and did not initiate worker contact unless a crisis was in progress. Many only had contact with the agency when it was initiated by the worker. Unfortunately, traces of this "what you don't know won't hurt you" policy still exist. A good foster parent will keep regular worker contact and a good worker will encourage such contact.

"We have completed your investigation and the allegations were unfounded."

Upon hearing this the foster parent is both relieved and angry--relieved that the experience is over, and angry they had to go through the trauma. For those families who remain in the foster care system, it is also a time of joy for they may now begin to accept placements again. Unfortunately, this declaration of innocence does not guarantee placements. In many

cases the agency hesitates in replacing children with the family. Some families experience a “quiet closing.” They remain legally licensed, but their file is marked “don’t place.” The family grows anxious and then angry when a placement does not occur. They remain cut off from the agency without explanation. The family assumes they were restored in good standing and status – yet are torn by the lack of placements.

It is time for both workers and foster parents to realize that allegations of abuse in foster care are on the rise, in part due to attempts by some foster children to manipulate the system. The situation is as much a problem for the foster child as it is for the foster family. If all parties involved in the system acknowledge this, then everyone will feel more comfortable in placing children after an abuse allegation.

If an agency declares an investigation completed and the allegations are unfounded, then placements should begin as soon as the family is ready to receive them. If there is no intention to use the home again, the agency should inform the family immediately. There is no logical reason to prolong the painful experience of an abuse allegation for the foster family or for the workers who still have faith in them.

Foster families are not asking for a moratorium on abuse investigations. We acknowledge with sorrow that abuse does take place in some foster homes. If the foster care system is to remain credible, investigations are a necessity. To deny any of this would defeat the very purpose for which we stand—the protection of children.

The foster parent in me asks for humane treatment during an abuse investigation. I, and all foster parents, ask to be kept abreast of the investigation procedure. We ask for timely investigations and notification upon their completion. We also expect honesty regarding future placements.

The trainer in me sees a need to do away with all mixed messages and to clarify any present misunderstandings. I also see a need for all agencies to have a written policy as to how allegations against foster parents are to be handled. These policies should be made available to all foster parents during their orientation sessions. There is also a need to eliminate the concept of “innocent until proven guilty” where foster families are concerned. Foster families must be made aware of the fact that an abuse allegation is a risk they may encounter.

And finally, I see a need for agencies to promote foster family networking as early on as orientation so that a strong support system is established. It is most important for agencies to support foster family interaction and to encourage foster parents' affiliations with foster parent associations because some foster families still look to the agency for guidance and direction.

These issues are complex at best. I view the problem from both sides and realize that it will only get worse before it gets better. It irritates me to hear people within the foster care system talk of large scale solutions that will take a long time to accomplish. We are dealing with a sore that needs attention before it becomes an ulcer, and frankly, time is not on our side. If agencies and foster parents work together to provide preventive education and to encourage a viable support network, we can buy the time needed to treat the problem systematically. Then, and only then, will we eliminate the trauma of abuse allegations to foster families.

REFLECTIONS

On the Symposium and on the Issue

Rosemarie Carbino

The Symposium's purpose was to seek a mutual definition of the issue of abuse allegations for foster families and to consider approaches to more constructive solution, while continuing to protect children. Through a seven-hour day on this issue with invited participants from all over the state, many considerations were illuminated, of course.

The experience of conducting the Symposium provided me an opportunity to reflect on factors involved in the problem of abuse allegations for Wisconsin foster families and to consider the parallels of the circumstances exemplified here with those I have noted in other states and at international foster care meetings. I wish to share my reflections on what seem to me important considerations.

The Symposium discussions exemplified the overall context within which this foster care practice issue is contained. The pressures that child welfare personnel face in service delivery are immense--for examples, the heavy demands of child protective service loads, the lack of sufficient child welfare staff and funding, the severe problems presented by children in foster care--and were reflected here. And, indeed, in many other states (see Kamerman, Sheila B. & Alfred J. Kahn. *Social Services for Children, Youth and Families in the United States*. Special issue. *Children and Youth Services Review*. 12 (½), 1990, 91-112). Thus, the demands on the child welfare system and the general lack of resources should be viewed as factors in maintaining the current problem of how agencies respond to foster care abuse allegations.

The Symposium also gave a picture of the different challenges faced by those with different foster care roles, and of their different perceptions of the issue and its solutions. We observed that, despite Symposium focus on the issue of abuse allegations for foster families, some participant discussion often focused, instead, on child abuse investigation and/or prevention. This suggested that child protection responsibility may make it difficult for child welfare personnel to sustain attention to what happens to reported foster families.

More input from foster parents and foster parent organizations is needed to provide balance in consideration of the issue.

The power of legal considerations when foster care maltreatment is alleged was also noticeable.

Participants identified foster parents' lack of legal rights regarding their foster children and agency concern about legal liability for foster children as factors in agency practice. Several participants also referred to the dilemma of whether and how to provide needed support for reported foster families while an abuse investigation is underway; one suggested that one agency role is as "potential co-defendant." The 1989 U.S. Supreme Court decision in *Deshaney vs. Winnebago County Department of Social Services* has established nationwide precedent for agency liability for placed children. I see a need for the child welfare field to reclaim final responsibility for practice, especially in defining for the legal system what is good practice in child protection, so that harmful practice, such as blanket removals of children from reported foster homes and isolation of foster families, will not be presumed to constitute positive child protection.

The Symposium achieved mutual recognition of foster parent stress and of a need for education and preparation of foster parents to deal with abuse allegations involving foster homes. Foster parents and county level staff were helpful in conveying the nature and degree of family trauma. At the same time, some participant views tended to discount the information regarding trauma to foster families as a consequence of agency actions. For example, the assertion that "all families get upset" when they are reported disregards the effects of damage to a prior teamwork relationship and of the grief involved in sudden and prolonged loss of foster children regarding whom they have no legal rights. Resolution of the issue must include treating foster families as families, rather than solely as foster parents, or service units, or potential legal liabilities, families in which foster parents and foster and other children are interconnected by many relationships.

Symposium participants demonstrated a willingness to address the issue jointly from diverse perspectives so as to understand it more fully and to develop solutions that work constructively for all involved. This joint participation was evaluated as the most positive aspect of the Symposium and bodes well for using joint problem-solving within this state and in other locales. For those who would replicate this effort, I would recommend taking longer, perhaps two days, to provide a more reasonable schedule for considering potential solutions.

I would also include many more foster parent participants, particularly those who have been through an abuse report, to help ensure that the message of foster families' experiences with abuse allegations is truly heard.

I believe that the negative effects of current practice regarding abuse allegations in foster care are not inevitable. The experience of this Symposium suggests that there is willingness to seek better solutions and that, through joint effort, those solutions can be found. This would represent a positive accomplishment on behalf of foster children, foster families and foster care.