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**Collaborative Health and Human Services Senior Capstone Project : domestic violence and child maltreatment : an evaluation of policy and best practices, improving Dependency Court outcomes in south Santa Clara County**

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**California State University**

**Monterey Bay**

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**Senior Capstone Project**

**Domestic Violence and Child Maltreatment:**

**An Evaluation of Policy and Best Practices,**

**Improving Dependency Court Outcomes in South Santa Clara County**

**Key Words:** domestic violence, child welfare, Dependency Court, Santa Clara County, best practices, policy, advocates, revictimization, family safety, neglect, abuse

**Abstract:** A descriptive and comparative analysis of programs/policies/best practices used by domestic violence advocates, child welfare departments, and Dependency Courts. Study evaluates local position and makes recommendations to improve outcomes for battered mothers and their children in South Santa Clara County who are engaged in legal proceedings.

God, grant me the serenity  
to accept the things I cannot change;  
the courage to change the things I can;  
and the wisdom to know the difference.

*In loving memory of*

**Elizabeth Jane English**

## LIST OF ACRONYMS

AACWA:	Adoption Assistance and Child Welfare Act
ASFA:	Adoption and Safe Families Act
BMA:	British Medical Association
CAG:	California Attorney General
CASA:	Court Appointed Special Advocate
CHHS:	Collaborative Health and Human Services
CM:	Child maltreatment
CPS:	Child Protective Services
CS:	Community Solutions
CSUMB:	California State University Monterey Bay
DA:	District Attorney
DAIP:	Domestic Abuse Intervention Project
DC:	Dependency Court
DFCS:	Department of Family and Children's Services
DV:	Domestic violence
DVA:	Domestic violence advocate
DVLA:	Domestic violence legal advocate
EMCF:	Edna McConnell Clark Foundation
FVC:	Family Violence Center (San Jose, CA)
FVPF:	Family Violence Prevention Fund
FVPSA:	Family Violence Prevention and Services Act
GAL:	Guardian ad litem
GFRC:	Gilroy Family Resource Center (Gilroy, CA)
ISSET:	Indicators of Success Evaluation Tool
KCFSA:	Keeping Children and Families Safe Act
MLO:	Major Learning Outcome
NACC:	National Association of Counsel for Children
NCJFCJ:	National Council of Juvenile Court Judges
NDSV:	Next Door Solutions to Violence
NOW:	National Organization for Women
OSC:	Order to show cause
PCADV:	Pennsylvania Coalition Against Domestic Violence
RO:	Restraining order
SCC:	Santa Clara County
SCCDVC:	Santa Clara County Domestic Violence Council
SSCC:	South Santa Clara County
SVP:	Solutions to Violence Program (Community Solutions, Gilroy, CA)
TPR:	Termination of parental rights
TRO:	Temporary restraining order
VAWA:	Violence Against Women Act
WHO:	World Health Organization
WIC:	Welfare and Institutions Code

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Lastly, Dr. Miguel Tirado deserves much appreciation for encouraging this student to challenge her way of thinking and question the status quo; and Dr. Brian Simmons for his direction, patience, understanding, and encouragement.

## **Executive Summary**

This study was performed under the auspices of the Solutions to Violence Program at Community Solutions in Gilroy, California. It explores the philosophy, approach, and best practices for working with families identified by the Department of Family and Children's Services as experiencing a co-occurrence of child maltreatment and domestic violence and who are currently engaged in Dependency Court proceedings. This study focuses on the rural southern communities of Santa Clara County.

Collaboration among community based service providers, county agencies, and the Juvenile Dependency Division of Santa Clara County has increased the number of integrated services for mothers *and* children, cross-system cooperation, communication, and cross-professional cooperation. While the county is considered a leader in changing the way systems work with each other, comparisons to aspects of other nationally recognized models and examination of family outcomes and experiences highlight weaknesses, resulting in families who may continue to be at risk of violence and/or unnecessary removal of children. Risk for poor family outcomes runs higher in South Santa Clara County due to limited access to resources.

Based on document reviews and personal communications and interviews with key stakeholders, analysis indicates that countywide practices are not always congruent with policy. Input from key stakeholders, commitment on the part of front line staff to collaborate, and agreement on mutual desirable family outcomes by institutions are lacking.

Recommendations include expanded services in Gilroy and Morgan Hill; greater involvement, guidance, direction, and decision making by survivors throughout the improvement and evaluation process; and integration of domestic violence advocacy in County offices.



## **Chapter 1: Overview**

This capstone is a descriptive and comparative analysis of programs, policies, and best practices used by domestic violence (DV) advocates, child welfare departments, and Dependency Court (DC) as they relate to families who have been identified as experiencing a co-occurrence of DV and child maltreatment (CM). More specifically, the purpose of this study is to determine factors that affect the outcomes for battered mothers and their children living in South Santa Clara County (SSCC) who are currently engaged in DC proceedings. The primary focus is on participation and collaboration among DV advocacy agencies, by the Department of Family and Children Services (DFCS), and the Dependency Division of the Juvenile Court system.

Research, personal communication, evaluative participation in professional trainings, document reviews, personal communications, and interviews with a DC judge, DV advocates, and DFCS staff contribute to this evaluation of SSCC. A thorough examination from numerous perspectives on policies, best practices, and recommendations for change has been conducted so that judicial officers, DV advocates, DFCS, and other service providers can best serve battered mothers and their children throughout the judicial process. Local, state, and national agencies, systems, approaches, philosophies, policies, and best practices are discussed to determine the ways they affect outcomes for battered mothers and their children.

This study was conducted at Community Solutions (CS) in Gilroy, California under the supervision and guidance of the Court and Community Advocate (CCA), Patricia Cardona. The study was part of an internship through the Collaborative Health and Human Services (CHHS) program at California State University of Monterey Bay (CSUMB) and was monitored by senior capstone advisors, Drs. Miguel Tirado and Brian Simmons as well as Marianne Marafino-

Johnson LCSW, Director of Youth Services and CSUMB Field Placement Mentor at Community Solutions.

### **Organization of the Capstone**

Chapter I is an overview of the capstone. It includes explanation of the project, its scope, limitations, and benefits (including a description of two supplemental deliverables for the field placement agency). The agency out of which the research was conducted is described in addition to the relevant program within the agency and the target population. The chapter concludes with a description of the application of academic requirements.

Chapter II is a literature review. In order to establish a basic understanding of perspectives for later discussion, the review begins with general information pertaining to DV and advocacy; child welfare and protection; and the Dependency Court process. Following is an examination of the overlap, duplication, or lack of appropriate services and cooperation among three key systems: DV advocates, DFCS, and DC.

Chapter III describes current demographic and statistical information relevant to Santa Clara County (SCC), differences between Northern and Southern communities, and local approaches in working with families. Finally, Chapter IV offers conclusions and recommendations based on the study.

### **Agency**

Community Solutions (CS) is a private non-profit, community based organization governed by a Board of Directors. The mission of CS is “to create opportunities for positive change by promoting and supporting the full potential of individuals, the strengths of families, and the well being of [the] community” (Community Solutions [CS], 2007b). The agency began as a drop-in center for teens in 1972 and has since grown to become the leading provider of

human and mental health services available to communities in South San Jose, SSCC, and North San Benito County with office locations in Morgan Hill and Gilroy.

The spectrum of services provided by CS includes prevention, intervention, counseling, treatment (residential and outpatient), housing, and 24-hour crisis intervention. Services range from free to fee based, can be voluntary or court ordered, and are delivered in a variety of ways including: individual case management, advocacy, group facilitation, outreach, referrals, and community education/prevention. Programs include drug and alcohol education, substance abuse counseling, mental health counseling, domestic and sexual assault services, foster youth support, two twenty-four hour crisis lines (rape/DV and general), a battered woman's shelter, temporary housing, seriously mentally ill adult comprehensive services, juvenile status offenders services, truancy reduction, probation, and restorative justice.

### **Program**

The Solutions to Violence Program (SVP) at CS offers a comprehensive array of services designed to prevent and assist families and individuals with issues around sexual assault, DV, and/or CM. SVP's mission "is to promote safety, well-being and autonomy of victims of violence while maintaining a healthy and symmetrical environment where staff can develop professionally and personally" (CS, 2006). Programs provide housing, counseling, support, advocacy (legal, individual, and systemic), education and prevention, and a 24-hour crisis counseling hotline. General advocacy services available for battered women include assistance with temporary restraining orders (TRO), court accompaniment, information, and referrals.

The Court and Community Advocate (CCA) provides specialized services for battered mothers facing allegations of CM by DFCS. Such advocacy is unique because it provides individual and systemic legal advocacy relating to the DC setting in addition to criminal or

family court (Chapter II describes advocacy and DC process in greater detail). Legal and individual advocacy entails helping the client navigate complex processes involved in DFCS investigations and petitions, ordered case plans, and the legal system as it relates to issues of dependency in addition to making ongoing appropriate referrals. The CCA plays a vital role in supporting the battered mother. The CCA can educate the mother about the implications of the different stages, allegations, responses, and interpretations of her activities throughout the process as well as navigation of the different systems she is involved with.

Systemic advocacy serves to educate other agencies, institutions, and systems about the dynamics and affects of DV in such a way that can improve individual experiences of battered women and their families when working with each system. In addition to working one-on-one with clients, another vital role of the CCA is working collaboratively with other systems that affect outcomes for battered mothers and their children including the judicial system and DFCS (explained further in Chapter II). This collaborative involvement is essential to the CCA position because it is funded by a federal initiative known as Greenbook, a project designed to get DV advocates, DFCS, and DC judges working *together* to improve family outcomes.

## **Population**

The CCA works with women directly and their children indirectly. Many clients have not graduated from high school (the average reading level is fourth grade) and a significant number struggle with substance abuse. Clients are typically underemployed, living at or below the poverty level and have an average of more than two children. For numerous clients, English is their second language. The isolation common among many DV victims is compounded by issues associated with immigration. Common challenges faced by clients include feeling torn about making changes that will affect their children, feeling ambivalent about the perpetrator, lacking a

support network, receiving pressure from family or friends to stay or leave the perpetrator, immigration status, or physical limitations.

### **The Problem**

Compounding poor family outcomes and other issues associated with family violence, problems arise if DFCS case plans and support services may not address family issues holistically; culturally, economically, and geographically. and/or are not coordinated or appropriate to the family's needs. Inappropriate intervention can result in poor long-term family outcomes (i.e. children are removed) as well as reduced immediate safety and wellbeing for battered mothers and their children (i.e. abuse by batterers increases and/or mothers are disempowered through the issuance of court orders backed by threats of permanent removal of their children). Some advocates claim that battered mothers are held accountable (i.e. DFCS "failure to protect" allegations in the absence of direct child maltreatment) for what the abuser is responsible (i.e. a potentially unsafe environment for children). There is cause for concern that battered mothers can be placed in the same power imbalance that characterized their abusive home relationship and that they are at risk of being emotionally, psychologically, and economically revictimized by the very system in place to protect their children (Imbrogno & Imbrogno, 2000).

Over the last twenty years, discussion and research have examined the relationship between DV and CM. Policy makers have responded to the growing number of findings and demands for action with laws and funding streams that have sprouted collaborative service approaches across the country. SCC is one of six demonstrations sites receiving grant money for a federal initiative known as Greenbook. Based on recommendations from the National Council of Juvenile and Family Court Judges, Family Violence Department publication titled, *Effective*

*Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice*, the project's main objective is to help reduce CM, DV, and DC cases (Greenbook, 2001). Funded by Greenbook monies, Community Solutions created the CCA position to respond to needs of battered women and children based on those recommendations.

### **Description and Methods**

This capstone used a four-step approach to evaluating policy and practices within the DC system in SSCC. Ongoing scholarly research took place throughout the entire process of this study. Research topics included theory, approach, best practices, published recommendations, public policy, other acclaimed models, articles by experts in each field, and relevant systems assessments, reviews, and evaluations.

An initial focused literature review was conducted regarding the DC process, child welfare system, and DV advocacy. Such information is necessary to understand the context of their relationships during analysis. Anecdotal and background information was collected through interviews, conversations, and participation in specialized trainings. Formal and informal communications took place with judges and deputies; public defenders and attorneys; Court Appointed Special Advocates (CASA); DV advocates and specialists; human services professionals; and child welfare social workers.

Conclusions and recommendations are offered to assist advocates, social workers, and judges in achieving better outcomes for families in SSCC. The purpose is to highlight strengths and identify challenges while offering recommendations for addressing each challenge.

### **Benefit of the Study**

The primary benefit of this study is the development of two deliverables for use and implementation at CS. Both deliverables have been designed to assist CS and their community

partners in the pursuit of favorable outcomes for families who are affected by DV and who are involved with, or may become involved with, the Juvenile Dependency Court. The first deliverable is a three part series of Community Partner Handbooks describing DV advocacy, DFCS, and the DC process. Each handbook includes enough detail to educate someone outside the specific field so that they may better understand the processes and issues facing families and can provide optimal support for successful outcomes. The second of the two deliverables is a brief report to CS on the conclusions and recommendations of the study. Intended to initiate discussion and/or integration as deemed appropriate by the Agency, said report will be submitted to Marianne Marafino-Johnson (Director of Youth Services and Field Mentor), Perla Florez (STV Program Director), and Patricia Caradonna (Court and Community Advocate).

Additional benefits of the study include articulation of possible avenues for change, which may lead to local systemic and agency improvements and hopefully, better family outcomes (i.e. safe, healthy, and intact families who have access to necessary social, economic, and legal resources). Research and interviews indicate that other counties and cities around the nation share many of the same issues facing SSCC. This study can be used as a tool anywhere by government/public benefit agencies as well as non-profit agencies that assist victims of DV or work with children.

### **Scope and Limitations**

The information addressed the study are derived from a combination of published statistics and information about DV, CM, and DC integrated with information that was derived from interviews, personal conversations, and participation in workshops and specialized trainings. A review of current literature and observation of the current trend in federal funding patterns reveal a demand for increased prevention and earlier intervention efforts. DV advocates

interviewed agreed that a multitude of steps should be taken to prevent a situation from getting to the point of DFCS involvement and called for greater involvement with families much earlier. Similarly, research regarding work with batterers is increasing and agencies and institutions are more frequently including services for them in an effort to address family safety more holistically.

For the purposes of this study, focused research, evaluation, and recommendations have been limited to policies and practices as they directly impact non-offending parents and their children during the Dependency Court process. This evaluation and set of recommendations are not intended to address an overarching goal that most courts, DV advocates, child welfare workers, and others have and that is eliminating violence in the home and in the community. Rather, it is designed to examine factors that affect outcomes for battered mothers and their children who are *currently* involved in a complex process and who are affected by policies and practices that are slow to evolve and respond to their mutual needs adequately.

There are varying schools of thought about using the terms “victim” and “survivor” when referring to someone who has experienced DV. Some people believe that the word “victim” is disempowering and implies a sense helplessness. Some people purport that “survivor” is a more positive word, implying that the abuse will (or did not) defeat the person. Other groups claim that the term “survivor” indicates completion of an emotional or personal journey and that the person has progressed from helpless to healed or adjusted. This study uses “victim” and “survivor” interchangeably and is not intended to imply anything more than giving a name to the person who has experienced domestic violence.

Although males and females are both victims of DV, because all the clients for the CCA are female and because the overwhelming majority of victims of DV are female, this document



uses “she” or “battered mother” or “mother” or “battered woman” or when referring to an adult victim of DV.

Generally, the federal system in charge of child welfare is known as Child Protective Services (CPS) and the regional or local agencies are referred to as either the Department of Family and Children Services (DFCS) or CPS. This study uses DFCS and CPS interchangeably regardless of the level of government actually discussed.

### **Application of Academic Requirements**

#### **Major Learning Outcomes (MLO)**

I have demonstrated my knowledge, skills and abilities in regard to the following CHHS Degree MLOs during the process of this study: Knowledge of Health and Human Services, Systems Management, Public Policy Analysis, Statistics and Research Methods, and Personal and Professional Communication.

Knowledge of Health and Human Services This study includes recommendations for change that are necessarily rooted in my solid understanding of diversity, advocacy, social justice, and the histories of the child welfare, battered women, and feminist movements. My understanding of how social policies have been developed and that they are the foundations for the each respective social program is demonstrated in my narrative.

In order to acquire insightful knowledge about the dynamic environments within which the different systems operate, it was necessary that I interact with individuals (clients, social workers, advocates, judges, etc.) and groups (DV collaboratives, drug court teams, mandated support groups, etc.). A broad review of literature, structured interviews, and conversations allowed me to critically assess, evaluate, and craft meaningful recommendations for improving practices. Such a comprehensive approach required that I maintain an open and curious mind,

constantly assessing my own perspective in relation to others' and engaging in thoughtful discussions with my mentor, professors, and supervisor.

Systems Management In order to make this study valuable, it was imperative that I have a thorough understanding of the different organizational cultures, structures, roles and responsibilities of the federal Dependency Court system, state and county child welfare systems, local law enforcement agencies, and community advocacy and victim's services agencies as they relate to families with violence. Firmly rooted in an understanding of the complex relationships within and between said organizations/systems and the public, recommendations in this study are based on the ways in which those relationships affect a client's experience when navigating them. Such knowledge was procured through a broad literature review, structured interviews, informal conversations, participation in collaborative meetings, observation of court hearings, review of documentation, and extensive professional training by State recognized and certified organizations.

Public Policy Analysis This study demonstrates my understanding of public policy analysis, the political context of the inter-relationships between victims and perpetrators of DV, children, advocacy groups, and government operated Child Protective Services and courts. Comprehensive public policy analysis includes identifying and defining the problem of family violence and are the basis for recommendations in this study. By becoming familiar with SCC's "Greenbook", DFCS, Dependency and Drug Court, as well as State and Federal policy/responsibility as they pertain to advocacy and case management for victims of DV and sexual assault I have analyzed existing policies and recommended alternative courses of action.

Statistics and Research Methods The basis for this comprehensive study is broad and current research from multiple sources. My evaluative narrative acknowledges and addresses the

existence and implications of the role that statistics play in funding allocation and program planning. The findings of this study are the result of careful and thorough integration of qualitative and quantitative data. The breadth and depth of detail with which this study focuses, demonstrates the value that I place on identifying tangible community needs, assessing the efficacy of various program service deliveries, and developing concrete and applicable recommendations for future program and policy development.

Personal and Professional Communication My recognition and sensitivity to issues around culture, gender, physical ability, and sexual orientation were reinforced during participation in professional trainings such as the forty-hour compulsory California State certification training for DV advocates. Examination and improvement of my own understanding of such issues was ongoing as was my ability to communicate professionally and sensitively, as illustrated in the writing of this study and during verbal interactions and presentations to CS and other agencies in the community.

My interaction with professionals at CS was courteous and appropriate to my level of involvement within the agency. At one point, my lack of understanding of the structure of the SVP program lead to an uncomfortable misunderstanding between myself and the director. Through calm and clear communication, I was able to rectify said confusion in a non-personalized manner and reestablish the idea that I understood the nature of our professional exchanges.

When interacting with clients in the community, I exercised sensitivity and, through observation of my supervisor, learned how to respond appropriately to a client in crisis. My supervisor modeled clear and direct communication that was sensitive to the existence and

impact of the power and status distinction between herself and the client. I was able to emulate such interactions and receive feedback.

### **University Vision Statement**

The University's commitment to multilingual, multicultural, and gender equitable learning has allowed me to learn from my peers of different cultures in the classroom, have access to equal education as a woman, have opportunities to work with diverse populations in my placements, and has helped prepare me for working in environments with diverse co-workers and clients.

CSUMB's collaborative and intellectual community which is distinguished by partnerships with existing institutions and coordinated community service has given me this opportunity to work with a full-service agency of human services in an area local to my home and has helped my ability to contribute to the betterment of my community and the state of California.

The University's vision to encourage experimental use of technologies as providers of increased access and enriched quality learning has given me access to numerous quality search engines through the library's electronic resources and has made scholarly research easily accessible and simple.

## **Chapter II: Literature Review**

In order to understand the context of how policies, practices, and processes affect family outcomes, it is first necessary to understand the characteristics, history, and impact of each of the following variables: DV and advocacy; child welfare and protection; and policies and processes that regulate Dependency Court proceedings.

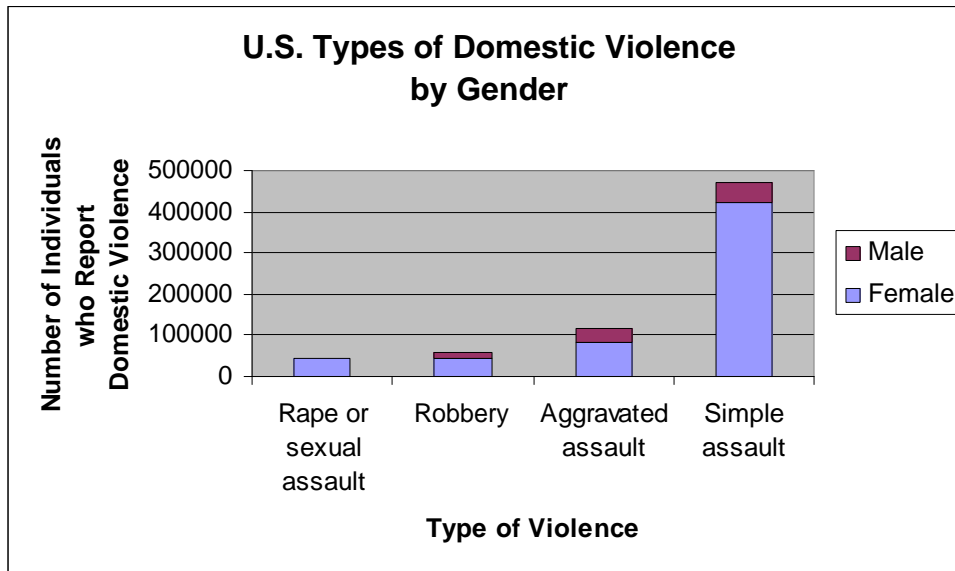
### **Domestic Violence**

DV is an ongoing pattern of intimidation, violence, and controlling behaviors by one partner in order to control and have power over the thoughts or behaviors of another partner (Domestic Abuse Intervention Project [DAIP], 2007). DV is abusive behavior that encompasses many actions used to exert power and control and is not solely defined by the presence of physical harm, often manifesting itself in ways not always observable to other people.

Recognized patterns of abuse are progressively more frequent, intense, and changing over time allowing for diagnosis and prediction; in later stages, potential lethality can be predicted (DAIP, 2007; Dutton, 2000). Types of abuse can include physical, sexual, psychological, emotional, financial, or spiritual (Next Door Solutions to Violence [NDSV], 2006). Abuse may manifest itself as blaming/denying/minimizing, threats, homophobia, coercion, intimidation, isolation, threats to reveal immigration status, use of children, use of privilege or entitlement, or use of differences between batterer and victim (NDSV, 2006).

DV affects many communities. Men and women are both victims, but women are more than five times likely to be injured by an intimate partner (see Figure 2.1 for reports of DV by gender) (Prah, 2006). Due to high stigmatization, DV is underreported, making true statistics hard to obtain. Secrecy and isolation are common among DV survivors.

**Figure 2.1 – 2000 Domestic violence reports by type and gender**



**Note.** Based on National Crime Victimization Survey data from *Child Protection in Families Experiencing Domestic Violence* written by H. L. Bragg, 2003. For more information, go to <http://www.childwelfare.gov/pubs/usermanuals/domesticviolence/domesticviolence.pdf>

According to the World Health Organization, intimate partner violence is the most common form of violence in women's lives globally, much more so than assault or rape by strangers or acquaintances (World Health Organization [WHO], 2005). The National Organization for Women reported that during 1995, every day four women died in this country as a result of DV and that at least two to four million women of all races and classes were battered each year (National Organization for Women [NOW], 1995). Approximately 500,000 women are stalked by an intimate partner each year according to a report by the National Institute of Justice and the Centers for Disease Control and Prevention (McKean, 2004). The California Attorney General's office reports that every year, almost 6% of women in the state suffer physical injuries from DV (California Attorney General [CAG], 2005). In 2004, 169 murders in California were the result of intimate partner violence and law enforcement received 186,439 DV calls with over half involving weapons, including firearms and knives (CAG, 2005).

Considering DV a serious social problem or crime is only a recent perspective on what, for thousands of years, has been tolerated and sanctioned violence in families. Building the foundation for what we recognize as modern gender inequality, the Roman Empire's Chastisement Laws were regulations giving a husband full power to judge and punish his wife who was considered a possession (Davidson, 1978). Centuries later, Christianity embraced the hierarchical family structure and the submission of wives to their husbands. In the Middle Ages, men were expected to keep their wives in check by beating them while women were expected to "kiss the rod that beat them" (Davidson, 1978). The common phrase "rule of thumb" refers to the British common law stipulating that a man may beat his wife with anything as long as it was no wider than his thumb (Davidson, 1978). Formal regulations protecting wives from harm inflicted by their husbands did not emerge until the nineteenth century when laws in the United States and England made physical abuse a crime and cruelty a justification for divorce (Davidson, 1978).

Global and national views about relationships, gender roles, and the accepted use of power and control over women were slow to evolve until the recent feminist movement of the 1960s. While complaints of abuse were routinely screened out by the United States' criminal justice system in the 1970s, grassroots efforts started as a small but growing number of rape crisis centers and battered women's shelters (NDSV, 2006). Psychologists read about family violence in the *Journal of Marriage and Family* for the first time in 1970 and almost twenty years later, in 1988, the U.S. Surgeon General made a statement that wife abuse was the leading health hazard to women in the nation (NDSV, 2006). Just four years before the Surgeon General's statement, Congress passed the Family Violence Prevention and Services Act (FVPSA) in 1984, which provided Federal funding to States so that they could increase awareness about DV and provide services and shelters for victims (Bragg, 2003).

By the early 1990s, the media were flooded with coverage of high profile DV cases and Nicole Brown Simpson's murder in 1992 forced the nation to examine DV on a large scale (Prah, 2006). By 1994, Congress got serious about the protection of women and passed the Violence against Women Act (VAWA), a far-reaching federal mandate. In 2000, President Clinton renewed the act after combining it with the Victims of Trafficking and Violence Protection Act and several smaller bills (Family Violence Prevention Fund [FVPPF], 2006). Although VAWA addresses *women* in the name, the law protects all people, regardless of sex (FVPPF, 2006). For more information regarding VAWA and other DV related policy.

Knowledge about the extent and effects of violence against women is still in its infancy. While studies continue to examine risk factors, causes of DV are not uniformly agreed on. Literature on the origins of DV indicate that it is substantially a product of gender inequality and the lesser status of women compared with men in society (Jewkes, 2002). Except for poverty, few social and demographic characteristics define risk groups (British Medical Association [BMA], 2002). Most DV advocates regard the use of violence as a learned behavior that that batterers choose in their intimate relationships and rarely use in other relationships (NDSV, 2006). Often associated with alcohol and drugs, which can intensify violent behavior, the advocacy community argues that battering is a method of achieving control, not losing control due to intoxication or stress (NDSV, 2006). Research suggests that different factors have an additive effect and some experts say that choosing abusive behavior and societal attitudes about that choice are constantly changing due to major economic and social transformations like industrialization, the separation of work from home, and urbanization (BMA, 2002; Peterson, 1998). The 2005 WHO report cites attitudes, inequities, and social norms as perpetuating abuse (WHO, 2005).



The economic, physical, and emotional health costs on society due to DV are substantial as illustrated by the following documented in a report on DV from 2000 by the United Nations Children's Fund Innocenti Research Centre (UNICEF):

*Direct costs* - value of goods and services used in treating or preventing violence including medical, police, criminal justice system, housing, and social services.

*Health costs* - pain and suffering including increased morbidity, increased mortality via homicide and suicide, abuse of alcohol and drugs, and depressive disorders.

*Economic costs* - decreased labor market participation, reduced productivity on the job, lower earnings, and increased absenteeism.

*Social costs* - interpersonal relations and quality of life including: intergenerational transmission of violence, reduced quality of life, reduced social capital, and reduced participation in the democratic process.

### **Child Maltreatment**

Child maltreatment is a term generally used to refer to all forms of child abuse or neglect. While *abuse* and *neglect* may conjure images in one's head and both words are common in literature and public debate, there are no exact definitions agreed upon across disciplines. Each state legally defines maltreatment, abuse, and neglect somewhat differently. Regarding CM, federal law refers to "the physical and mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health of welfare is harmed or threatened" (National Association of Counsel for Children [NACC], 2005). General characteristics and descriptions that differentiate classifications of maltreatment follow:

Abuse

- *Physical*: non-accidental physical injury as a result of caretaker acts (NACC, 2005).
- *Sexual*: engaging “dependent, developmentally immature children and adolescents in sexual activities which they do not fully comprehend and to which they are unable to give informed consent” (NACC, 2005).
- *Emotional and psychological*: continuous verbal harassment through the use of disparagement, criticism, threats, intimidation, name calling, belittling, shaming, and/or ridicule (NACC, 2005).

#### Neglect

- *General*: failure to provide for the basic needs of a child and/or providing for their emotional needs as well. Basic fundamental needs of a child include availability of adequate food, clothing, medical care, and education (NACC, 2005).
- *Failure to protect*: Welfare and Institutions Code, Section 300(b), relating to DV in some jurisdictions the allegation can constitute neglect on the basis of a battered parent’s action or inaction in response to the abuse which in turn places the child at risk of harm (Greenbook, 2006; Bragg, 2003).

According to a U.S. Department of Health and Human Services (2006), Children’s Bureau annual report that captures case-level data from all CPS agencies throughout the United States, CPS received 3 million referrals for child abuse and neglect in 2004. Of those referrals, approximately 66% were accepted for investigation or assessment and 872,000 children were found to be victims of maltreatment (United States Department of Health and Human Services [USDHHS] 2006). The majority of the reports were made by mandatory reporters (professionals who are obligated by law to report suspected child maltreatment) including educators (17%), law

enforcement (16%), and social services (11%) (USDHHS, 2006). Approximately 44% of the other reports were made by friends, neighbors, or relatives (USDHHS, 2006).

Children under three years of age had the highest rates of victimization with girls experiencing abuse slightly more than boys (USDHHS, 2006). Approximately 19% of the substantiated cases resulted in foster placement and around 79% of all abuse was perpetrated by parents (USDHHS, 2006). An estimated 1,490 children died due to maltreatment, the most common cause of fatalities occurred as a result of neglect, and nearly 80% of those deaths were children under four years old (USDHHS, 2006).

One of the first practices addressing child welfare occurred in England under the Elizabethan poor laws of the sixteenth century, where abused and neglected children were removed and placed in out-of-home care (SCC, 1993). In the United States, few legal defenses for children were available until the early twentieth century when juvenile courts first emerged, but court practices differed greatly and were “generally inadequate to meet the needs of abused and neglected children and their families” (Jones, 2006). In 1962, the identification of battered child syndrome combined with an increasing public and political awareness lead to State mandates aimed at protecting children (Jones, 2006). Differing greatly from today’s ideal, the court process for child maltreatment in the 1970s often only included the caseworker, the judge, and sometimes, the parents, but usually did not include the child (Jones, 2006). If the court substantiated abuse or neglect, CPS frequently took custody of the child (Jones, 2006).

The Child Abuse Prevention and Treatment Act (CAPTA) of 1974 was the first federal law passed, which required States to pass mandatory reporting and confidentiality laws in addition to appointing a guardian ad litem to work with every child in juvenile court for maltreatment (Jones, 2006). The next major piece of federal legislation was the Adoption

Assistance and Child Welfare Act (AACWA) of 1980 that required CPS to prove reasonable efforts were made to ensure that no child was unnecessarily removed from their home and that reasonable efforts were made to get children out of foster care and back in to their homes (Jones, 2006). The definition of reasonable efforts was not described in the AACWA, but it did require mandatory case plans for each child and has evolved over time to include mandatory referrals for, and availability of, services to parents to obtain skills and knowledge necessary to ensure child safety at home (Edna McConnell Clark Foundation [EMCF], 2000).

In 1997, Congress passed the Adoption and Safe Families Act (ASFA) which modified the requirements of reasonable efforts by allowing certain exceptions justified by the clarification that “a child’s safety is paramount” (EMCF, 2000). Reasonable efforts to reunify or avoid removal could be “bypassed” if the court determined any one of the following three items:

- A parent subjected the child to “aggravated circumstance” as defined by each state;
- A parent committed murder or voluntary manslaughter of another one of their children, or felony assault that resulted in bodily harm of any of their children;
- A parent’s rights to a sibling of the child were terminated (EMCF, 2000).

The ASFA also allowed for concurrent planning (simultaneous preparation for reunification and adoption). Concurrent planning was intended to ensure that: no child would be placed in foster care who could be protected at home; that when removal was necessary, reunification must always be attempted (except under conditions mentioned above); and children who could not return home, ideally, should be placed in adoptive homes so they do not “languish” in foster care (EMCF, 2000).

The next major piece of legislation to affect child welfare reform was the Keeping Children and Families Safe Act (KCFSA) of 2003, a reauthorization of CAPTA that included

two major amendments (Jones, 2006). Changes made in the new act addressed confidentiality restrictions that previously protected the child's maltreatment status (Jones, 2006). KCFSA required that States share a child's status with "any agency or individual who had a statutory duty to protect children" in addition to granting States the independent authority to decide whether to allow public access at child maltreatment court proceedings (Jones 2006).

### **Dependency Court**

Juvenile court as it known today is the product of a process that has been evolving for a little over a hundred years. Created in the state of Illinois in 1899, the first juvenile court addressed juvenile delinquency and status offenses (Jones, 2006). Over time, juvenile courts spread throughout the states and began expanding their responsibilities to include the protection of children from abuse and neglect (Jones, 2006). There are two main branches of juvenile courts today: Dependency Court, which deals with issues of abuse and neglect against a child; and delinquency court, which deals with crimes and status offences committed by a child. Since inception, rehabilitation and reform have been central to the juvenile court process (Jones, 2006).

Juvenile Dependency Courts are responsible for interpreting State and Federal child welfare laws and deciding if a child has been maltreated. The court is responsible for ordering services, monitoring cases, and ultimately, deciding what placement is best for the child (Jones, 2006). Juvenile Dependency Courts make decisions about child welfare and placement on the basis that the State has legal authority to act as the guardian of any child whose parents or caretakers are unable to provide adequate protection meet their needs (Jones, 2006). This authority is given to the State through a legal proclamation called *parens patriae*, the same basis from which schools and social service agencies gain their authority and obligation "to ensure the protection and rights of children as a unique class" (Jones, 2006).

Juvenile courts generally operate the same as any other court with one major difference: juvenile courts rely heavily on input from numerous professionals, such as DFCS social workers, probation officers, psychologists, DV specialists, educators, child development specialists, child advocates, caretakers, and others. In Dependency Court, these professionals provide information about children, families, and family histories so the court can make informed and appropriate decisions and approve case plans and orders for support services in an effort to avoid removal of the child (Jones, 2006). Ideally, issues of housing, childcare, transportation, in-home services, parenting, educational services, DV advocacy, mental health or substance abuse treatment, and employment are addressed by the court and appropriate services are made available (Jones, 2006). DFCS social workers are responsible for developing case plans (court ordered services) for parents as well as reporting to the court on case plan progress (Greenbook, 2006).

While numerous concepts and principles are common to the process and decision making in juvenile Dependency Courts across the country, many policies vary from state to state. Generally accepted and defended many times through Supreme Court decisions and by the constitution, is the right to family integrity (Jones, 2006). Family integrity assumes that parents reserve some rights to raise their children their own way, but it also implies that parents have certain responsibilities to ensure the health and safety of their children and requires that the State take an interest in ensuring such health and safety (Jones, 2006).

Although California and most other states provide court-appointed lawyers for parents who cannot afford representation in child maltreatment cases, there is no constitutional right entitling parents to counsel in such cases (Jones, 2006). In SCC, attorneys from private firms who have been contracted by the County are appointed to represent parents who cannot afford counsel. Rights that parents and children are uniformly entitled to include: notice of proceedings,

a hearing, a jury trial, appointment of a guardian ad litem [also known as a Court Appointed Special Advocate (CASA)] for a child, and *reasonable efforts* (further explanation of reasonable efforts follow) (Jones, 2006). The law requires that parents and children understand these rights; the law assumes that court representatives or DFCS caseworkers will explain them to parents and children.

The term, *reasonable efforts*, refers to the responsibility that government agencies (specifically DFCS) have to children and parents. Agencies must be able to prove that they made reasonable efforts to keep families together, reunify them if the child has been removed, or secure a permanent placement for children if the court decides that reunification is not in the best interest of the child and termination of parental rights (TPR) has occurred (Jones, 2006). The judge is responsible for deciding whether reasonable efforts have been made by child welfare agencies at each stage of the DC court process.

Before a juvenile dependency case ever reaches the courtroom, there are a number of other steps that must occur. Figure 2.2 illustrates the series of steps preceding and including initial court hearings. The first step is receipt of a report of suspected maltreatment made to police or CPS. Such reports can be made confidentially by any child or family, friend, neighbor or community member who suspects child maltreatment or by a professional deemed by law as a mandatory reporter (see Appendix D: Mandated Reporting in Domestic Violence Cases) (Greenbook, 2006). The call is either “screened out” or referred for investigation to DFCS to determine if it will be:

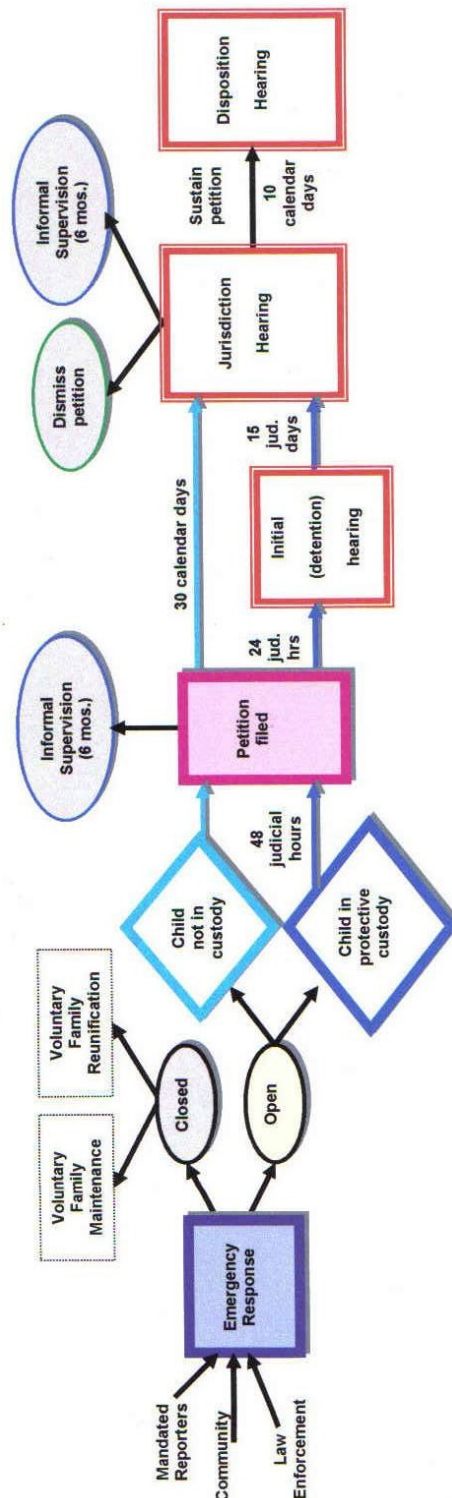
- Opened - allegations are substantiated, the child may or may not be in custody, the case will proceed before a judge;
- Closed - allegations are inconclusive or unfounded, no further action is taken;

- Diverted - allegations are substantiated, but do not justify opening an official case to go before a judge and voluntary services are utilized under informal supervision for six months (Greenbook, 2006).

The juvenile Dependency Court process comprises numerous hearings from which outcomes of each determine the next step in the process. A petition alleging child maltreatment must be filed against the parents within forty-eight hours of a DFCS determination to open a case (Greenbook, 2006). An initial hearing, also known as a detention hearing, must take place within twenty-four hours of the filing of a petition if the child is in protective custody (Greenbook, 2006). A jurisdiction hearing must follow no more than fifteen days from the filing date if the child is in protective custody or no more than thirty calendar days if the child remained at home (Greenbook, 2006).



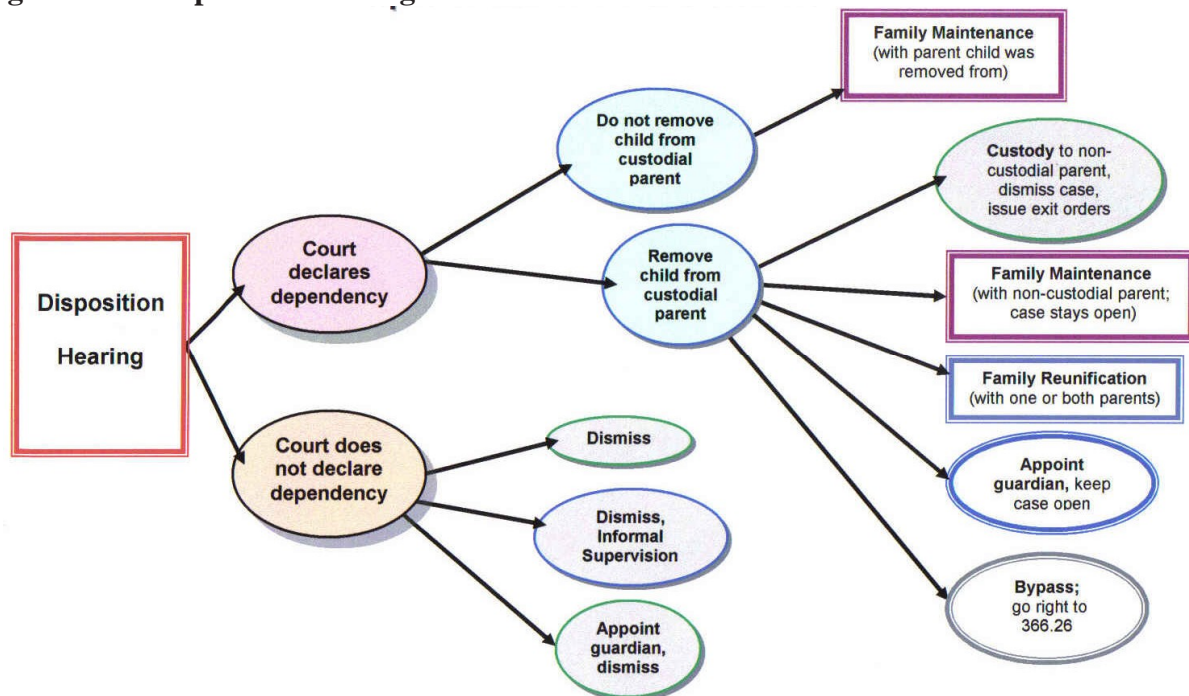
Figure 2.2 – Juvenile Dependency Court process leading to disposition



Copied from *The Juvenile Dependency Court Process* (page 1 of 2) compiled, provided, and presented by Judge Shawna Schwarz, Juvenile Dependency Division Santa Clara County Superior Court, at the Greenbook Project Training, June 23, 2006.

A jurisdiction hearing requires that the judge decide whether the allegations made against the parents by DFCS satisfy the legal requirements for a dependency case and if the court can establish “jurisdiction or ‘authority’ over that type of case” (for more information see Appendix D: Child Maltreatment Law, Welfare and Institutions Code (WIC), Section 300) (Jones, 2006). Following jurisdiction, a disposition hearing must take place within ten calendar days (Greenbook, 2006).

Disposition hearings determine the following: whether or not the child should be declared a dependent, if the child should be removed from the home, with whom the child should live, what services (if any) the parents should receive, whether or not DFCS has made reasonable efforts, what the concurrent plan is, and a plan for visitation (Greenbook, 2006). The judge decides whether or not parents are eligible for services to reunify according to WIC 361.5(b)(e) which makes certain exceptions to the rule of reunification (see section on ASFA on page 23) (Greenbook, 2006). A number of varying outcomes can occur after a disposition hearing, as illustrated by Figure 2.3.

**Figure 2.3 – Disposition hearing outcomes**

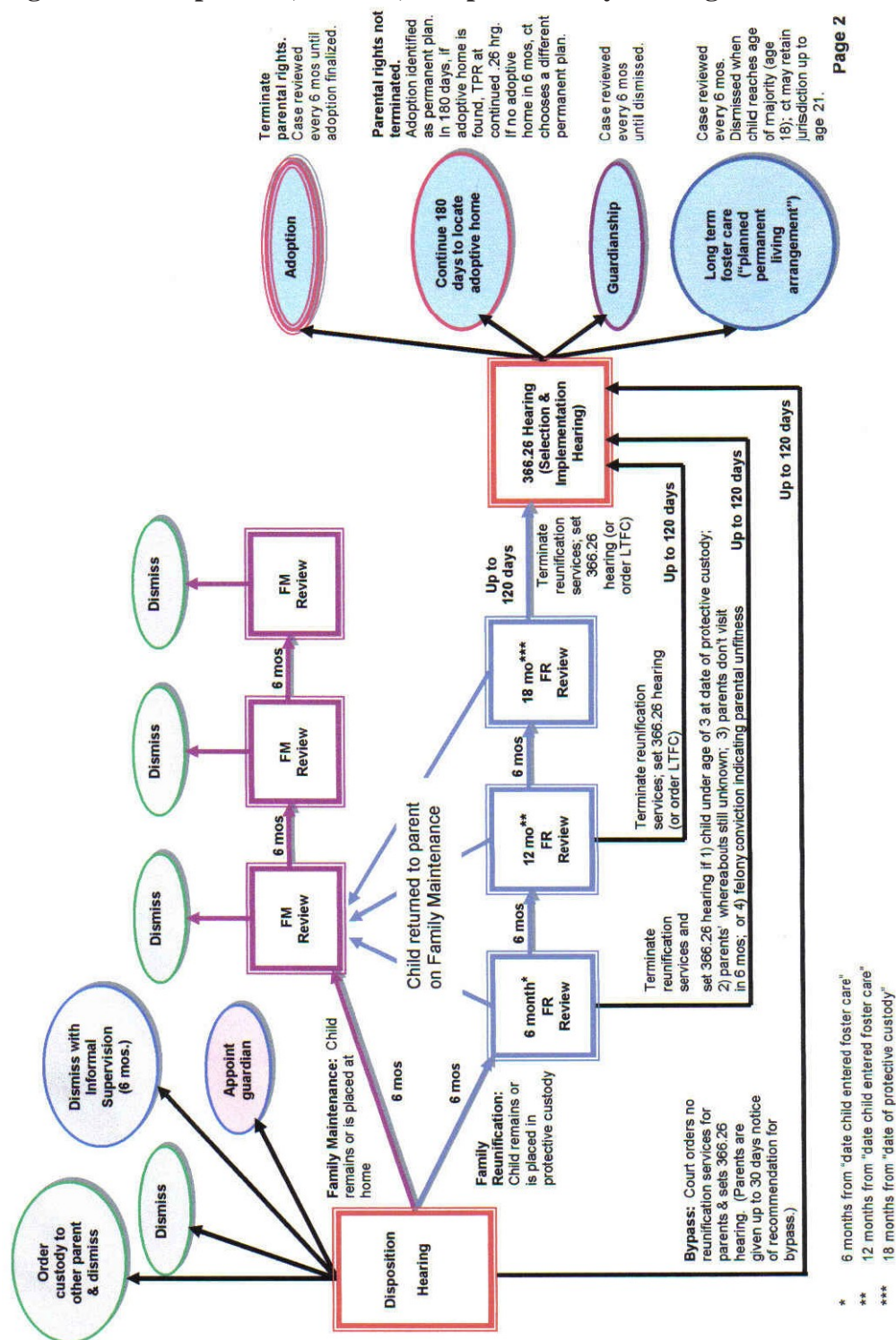
**Adapted from *Disposition: A closer look* compiled, provided, and presented by Judge Shawna Schwarz, Juvenile Dependency Division Santa Clara County Superior Court, at the Greenbook Project Training, June 23, 2006.**

A judge's dependency declaration in a disposition hearing will result in one of two main tracks that the case will follow: family maintenance or family reunification. The family maintenance track means that the child is at home and parents are completing the case plan that was recommended by DFCS and ordered by the judge (Greenbook, 2006). The family reunification track also requires parents to follow the case plan, but means that the child is out of the home. Reunification will occur as long as no substantial risk to the child's safety or wellbeing exists; parents' lack of participation in the case plan determines such risk (Greenbook, 2006).

The majority of hearings following disposition are review hearings. The child's age and the parents' progress on the case plan determine frequency and scheduling of review hearings (see figure 2.4). If the child is less than three years old, parents must complete their case plans

within six months in order to accomplish reunification (Greenbook, 2006). If the child is three years or older, parents are given a review hearing every six months for up to a maximum of eighteen months (Greenbook, 2006). Pending parental progress on the case plan, the child may be returned home, at which point family maintenance can begin, or the reunification services can be terminated by the judge and a permanency hearing (referred to as the “§366.26” or “selection and implementation” hearing in SCC) is scheduled (Greenbook, 2006). The legal burden of proof regarding parental progress on a case plan is placed on DFCS and the judge’s decision is based a preponderance of evidence, a much lesser degree of burden of proof than is required in criminal cases (Jones, 2006).

Adapted from *The Juvenile Dependency Court Process* (page 2 of 2) compiled, provided, and presented by Judge Shawna Schwarz, Juvenile Dependency Division Santa Clara County Superior Court, at the Greenbook Project Training, June 23, 2006.



After necessary review hearings have occurred, and if the child has not been sent home and the case dismissed, the §366.26 hearing will occur at which time the judge will make the definitive decision is about the child's permanent placement (Jones, 2006). While the law favors adoption as the permanent placement, other outcomes can include guardianship or long term foster care (Greenbook, 2006). If DFCS can prove to the court that the child is likely to be adopted by clear and convincing evidence (a greater burden of proof than preponderance of evidence), then the court must terminate parental rights (TPR) and order adoption as the permanent plan (Greenbook, 2006).

Although rare, there are a number of exceptions to TPR if the parent can prove any of the following: there is a beneficial relationship with the parent; a child twelve years or older objects to the adoption; the child is in a residential facility; there are beneficial sibling relationships to consider (Greenbook, 2006). If TPR has not occurred and the court has not dismissed the case, a parent can file a §388 petition requesting that the court modify prior orders by alleging that there is new evidence or a change of circumstances and the parent must show why the change is in the best interest of the child (Greenbook, 2006). The court may deny the petition on its face or set a hearing at which point the court's prior orders will be reviewed in light of the new information (Greenbook, 2006).

### **Overlap**

#### **Co-occurrence of DV and CM**

A cautionary note about statistics and rates of child maltreatment in relation to DV is necessary at this point. Since the 1980s, research has confirmed that violence frequently occurs against adults and children in the same families, but to what extent that violence occurs and the effects of such violence is still not fully understood (Schechter & Edleson, 1999b). Findings



regarding relationship and prevalence are unclear, in large part due to data collection (Edleson, 1999a). Much of the data cited in studies regarding overlap has been collected from surveys or case reviews in which documenting family violence or child maltreatment was secondary to some other purpose (Edleson, 1999a). This dilemma would imply that statistics are strongly influenced by the source of the data in which case specific findings would be inconsistent and invalid (Edleson, 1999a).

Keeping the above in mind, researchers have agreed that a relationship does exist and that the experience or witnessing of DV does affect children. In a 1995 Gallup Poll, data suggested that between 1.5 and 3.3 million children witnessed DV in a year (Carter, 1998). Based on a number of studies reviewed in 1994 by Susan Schechter and Jeffrey Edleson, two leading authorities on the overlap of child maltreatment and DV, it was estimated that as many as 10 million children in the United States witness DV in a year and about half of those children may have also been abused (Schechter & Edleson, 1994).

In another review of over thirty studies involving the link between DV and CM between 1994 and 1999, Edleson and Beeman (1999) found that there was a median co-occurrence of both forms of violence in 40% of the families. In a national survey of over 6,000 families, 50% of the men reported as having assaulted their wives also assaulted their children (Carter, 1998). A review of child maltreatment cases at the Massachusetts Department of Social Services found that 48% mentioned DV in the file and of the cases in which children were hospitalized, 59% of those mothers were beaten by male partners (Carter, 1998). An Oregon Department of Human Resources report said that in cases where children had been critically injured or killed, 41% of families had documented DV (Carter, 1998). According to the U.S. Advisory Board on Child

Abuse and Neglect, DV may be the single major precursor to child abuse and neglect fatalities in this country (Carter, 1998).

### **Effects of DV on women**

DV has a profound impact on the physical and mental health of those who experience it. It is associated with an increased risk for a range of physical and mental health problems and is an important cause of mortality from injuries and suicide (BMA, 2002). In 1993, the World Bank estimated costs for DV and rape accounted for nearly one in five years of life lost due to premature death for women age fifteen to forty-four (BMA, 2002). A WHO study found that abused women were also twice as likely as non-abused women to have poor health and physical and mental problems including suicidal thoughts and attempts, mental distress, and physical symptoms like pain, dizziness and vaginal discharge (WHO, 2005).

Effects of DV can also influence parenting behaviors. Higher levels of stress, emotional exhaustion, and depression can be associated with the presence of DV, which in turn may affect the way a mother interacts with and responds to her children (Bragg, 2003). Neglectful parenting such as not taking a child to school or to the doctor could be the result of a batterer's unwillingness to allow the mother to leave or interact with other people who could see physical evidence of abuse or inquire about family dynamics (Bragg, 2003). Battered mothers may also use inappropriate discipline techniques in order to protect their children from more severe forms of violence that the batterer may use (Bragg, 2003).

### **Effects of DV on children**

The greatest amounts of information currently available concentrate on the behavioral and emotional effects of DV on children. Children who have witnessed DV show lower social competence and more anxiety, depression, anger, and temperament problems than children who



have not witnessed DV and male witnesses have been found to exhibit more aggressive and antisocial behavior than female witnesses who tend to exhibit fearful and inhibited behaviors (Edleson, 1999b). One study indicated that children's recent exposure to violence was a factor in predicting their own violent behavior (Edleson, 1999b).

Witnessing DV is also found to affect the cognitive functioning and attitudes of children. Academic abilities differ among those who witnessed the violence and those who did not, but cognitive development problems occurred with greater frequency among witnesses and one study suggested that children's exposure might generate attitudes of justifying their own use of violence (Edleson, 1999b). Long-term problems among adults who were child witnesses was greater than non-witnesses and included more reports of depression, trauma related symptoms, and low self-esteem (Edleson, 1999b).

Conversely, some studies suggest just the opposite, where child witnesses actually experienced significantly less distress and greater social adjustment than non-witnesses (Edleson, 1999b). A number of documented variables may mitigate the impact of witnessing DV including termination of violence, the role of the non-offending parent, and community support (Jaffe & Crooks, 2005).

Researchers suggest that the effects of witnessing DV are distinct from the effects of actually being abused. Studies have shown that child witnesses who were also abused had more problem behaviors than children who just witnessed violence and children who did not witness it or get abused themselves (Edleson, 1999b). The amount of time since a violent event occurred also appears to affect the severity of the impact; the more immediate the event, the more severe the impact (Edelson, 1999b).

## **Approach**

The following sections address the various approaches used by the three systems when working with clients. Understanding some fundamental differences about the differing approaches contributes to a better understanding of challenges and strengths that exist when the three work collaboratively.

### **Domestic violence advocacy**

Advocacy is a well-established approach used to address and combat a multitude of factors affecting the experience of certain groups, including victims of DV. Princeton University's (2007) online definition of advocacy is "active support of an idea or cause etc.; especially the act of pleading or arguing for something". DV advocacy generally entails working one-on-one with victims in a supportive role, but also includes community involvement addressing systemic and societal factors that compound the negative physical, emotional, and spiritual impacts of the violence itself. In a manual published for DV advocates by the Pennsylvania Coalition Against Domestic Violence (n.d.), the four main types of advocacy are described as:

1. Self-advocacy: Representing one's own rights and interests and seeking solutions to a problem by oneself. This form of advocacy is the goal of all other forms of advocacy;
2. Individual advocacy: Speaking or acting on behalf of an individual to achieve change in the practice of another individual or an institution necessary to protect legal or social rights or to effect justice on behalf of the individual who seeks help in effecting the change or justice.
3. Systems or group advocacy: Influencing social and political systems to bring about changes for groups of people. Usually a coalition of people, but sometimes an

individual, will seek changes, such as changes in laws, establishing shelters where there have been none, or arranging for the removal of batterers to needed services and legal protection. Systems advocacy means changing the policies and procedures of a system and substantially affecting the attitudes of personnel throughout that institution.

4. Legal or representative advocacy: Litigating and legislating to establish the legal rights of battered women and to insure that those rights are not violated. This form of advocacy may be used to benefit individuals or classes of people. (p. 5)

***Advocate vs. specialist or service provider***

The role of an advocate differs from the role of a service provider or, what some organizations term, a specialist. Building on principles documented by Jane Knitzer (1976), many of today's advocates approach their work based on the belief that people ought to have certain basic rights and policies ought to support those rights. Knitzer (1976) points out that advocacy "is inherently political" and differs in objective from simply providing individual or direct services because its primary focus is on the quality, appropriateness, and availability of services.

Another factor that distinguishes DV advocates from service providers or specialists is their intended client. The Massachusetts Department of Social Services has staffed DV specialists in their Child Protective Services department to work with caseworkers (Aron & Olson, 1997). DV specialists offer consultation to the department in identification of DV in their caseloads, collaborate with other agencies to educate community members about the relationship between DV and CM, and provide safety planning and some advocacy services directly to clients

(Aron & Olson, 1997). The DV specialists consider the department their primary client and battered women consumers of their services (Aron & Olson, 1997).

### ***Responsibilities of an advocate***

Important tasks that DV advocates perform when working with victims of violence include safety planning as well as locating and securing vital resources. In addition to literally identifying safe people and places to go to during an episode of physical violence, safety planning includes assisting the client with recognizing and naming risks generated by and associated with the batterer and other life circumstances (Davies & Lyon, 1998). Life generated risks that require services often include housing, employment, legal assistance, transportation, education, childcare, health care, material goods and services, financial assistance, services for the children, and social support (Sullivan & Keefe, 1999).

Legal advocates perform the same functions as other advocates in addition to making the legal system more accessible for battered women. Tasks may include court accompaniment, help with terminology or understanding the process, and communication assistance with court staff, attorneys, or other relevant systems (PCADV, n.d.). Advocates are not legal consultants and cannot give legal advice. Information giving about law and supporting a battered woman through the legal process differs greatly from an attorney's role whose job it is to interpret and apply law on behalf of the survivor (PCADV, n.d.).

### ***Fundamentals of advocacy***

When DV advocates are working one-on-one with a client, their interactions with the client and other characters in the client's life are dictated by specific principles. Fundamental to working with victims of DV is the belief that the client is the expert in knowing what is best for her. This belief drives advocates toward educating the rest of community about that concept and

finding supportive responses that are appropriate to what a survivor has identified as her needs, rather than challenging her approach or beliefs (Sullivan & Keefe, 1999). Empowerment is also key to DV advocacy with the ideal outcome being one in which the survivor has pursued “justice, safety, and autonomy” for herself, with the advocate only speaking or acting on behalf of a client at her request (PCADV, n.d.). Advocates are careful not to “foster dependence or passivity” in their work, but rather encourage and support self-reliance by providing information that can enable women to do it themselves (PCADV, n.d.).

Confidentiality is absolutely crucial to the sanctity of the relationship between advocate and client and the efficacy of any work done with battered women. Jill Davies, attorney and author of numerous articles and materials regarding family violence, advocacy and poverty, states that confidentiality is the basic rule in advocacy (2003). In a document about confidentiality for DV advocates working in the courts, Davies eloquently describes the importance of and principle behind confidentiality:

The basic rule is: *A client’s information is not shared outside the agency unless the client gives the agency permission to do so.* The basic rule reflects three important goals of DV advocacy:

1. Preserve safety strategies that rely on certain information remaining private. For example, ensuring an abusive partner does not find out where the woman and her children are staying.
2. Provide the privacy necessary for women to talk freely with advocates and share details that will be essential to planning for safety. For example, a woman struggling with addiction will need safety strategies that support her staying clean and sober.

3. Place control of the information in the woman's hands and demonstrate advocates' commitment to women's autonomy and self-determination. This goal is both philosophical and practical. Philosophically, it reflects core values of many advocates and practically it is the "antidote" to the pattern of coercive control that is domestic violence. When battered women make decisions about information, their options, and their children and work with an advocate to guide and define the advocacy, they are exerting independence from a violent and controlling partner (Davies, 2003).

### ***Attributes of a good advocate***

A good advocate can blend skills of counseling and community organizing seamlessly and easily (PCADV, n.d.). Pursuit of justice and demand for accountability can be adversarial and confrontational at times, but effective advocacy employs a diplomatic and respectful approach (PCADV, n.d.). Active listening, the absence of jargon, and the use of open ended questions distinguish quality communication skills necessary by advocates (Davies & Lyon, 1998; PCADV, n.d.). Advocates should be well versed on the nuances of the many systems and community resources that are available to and that affect the client as well as how to utilize or navigate them and the pertinent laws and policies that govern each (PCADV, n.d.). An advocate's self-awareness of biases and limitations are as important as their knowledge of and comfort with cultural groups and lifestyles that are different from their own (PCADV, n.d.). A successful advocate will also have strong critical thinking skills and the ability to teach such skills along with problem solving and planning (PCADV, n.d.).

### ***Outcomes of effective advocacy***

Research shows that DV advocacy improves outcomes for battered women. Sullivan (1991) found that using a one-on-one advocacy approach to increase women's access to a variety

of community resources and supports resulted in less violence experienced over time, higher quality of life and social support, and less difficulty obtaining community resources for most of the women (Sullivan & Keefe, 1999).

Two hundred seventy-eight women took part in the study and were interviewed before, during, and after (every six months, for twenty-four months) the study with a control group to measure outcomes against (Sullivan & Keefe, 1999). Advocates assisted clients in obtaining housing, employment, legal assistance, transportation, education, child care, health care, material goods and services, financial assistance, services for the children (e.g., tutoring, counseling), and social support (e.g., making new friends, joining clubs or groups) (Sullivan & Keefe, 1999). Of the women who received advocacy services, 25% experienced no physical abuse during the following twenty-four months, whereas only 11% of the control group experienced no violence (Sullivan & Keefe, 1999).

Desirable DV victim's advocacy outcomes usually result in desirable child outcomes. Davies' (199) previous reference to ensuring battered women have control over their information as the "antidote" to the powerlessness of DV, is one example of how advocacy supports independence and autonomy, two ideal advocacy outcomes that can make battered women and their children safer. When advocates work with systems to ensure that assessments are accurate, those systems are better able to respond to the needs of adult and child victims of violence which can increase safety and financial stability, thereby improving the wellbeing of both (Davies, 1999).

### **Child protection and intervention**

Within California, county run social services agencies usually handle child welfare in departments frequently referred to as Child Protective Services (CPS) or Department of Family

and Children's Services (DFCS). These departments are responsible for addressing the health and safety of children in their jurisdiction according to *parens patriae*, a legal obligation "to ensure the protection and rights of children as a unique class" (Jones, 2006). Such rights are guaranteed to children who have been abused or maltreated utilizing a five-stage intervention process conducted by DFCS including: intake, investigation and assessment, services and case management, foster care, and permanency proceedings.

Intake describes the process used by DFCS to identify cases of child maltreatment. Reports are made to police or an abuse hotline by mandatory reporters (professionals required by law to report suspected child abuse), the abused child, or other concerned people where intake workers establish whether the report will be referred to the investigation department (Enos, 2003). Investigation and assessment begins by assigning an investigator to look into the report and substantiate allegations, which must occur within ten days or less, depending on whether the child was removed from the home or not (Enos, 2003). Substantiated reports become either open cases in which service plans are mandated for one or both parents, or they are referred to diversion programs where services are voluntary (although failure to utilize voluntary services may result in an open case with mandated services) (Enos, 2003). Services and case management occur once an assessment is complete. Parents are legally obligated to comply with the service plan designed by DFCS and failure can result in temporary loss of custody (Enos, 2003).

Foster care or group home placement of children will occur when DFCS deem that children are at risk in their home and is considered a temporary placement for up to fifteen months during which time parents have visitation rights as defined by DFCS (Enos, 2003). Permanency proceedings dictate permanent placement and are based on DFCS reports of parental progress on case plans and whether a child has been in foster care longer than the limit



stipulated in the ASFA (six months if the child is under three years of age or fifteen months if the child is three years or older) (Enos, 2003; Greenbook, 2006).

***Caseworker, attorney, and guardian ad litem***

Children in Dependency Court may have as many three different individuals who advocate on their behalf and whose input the judge relies on throughout the Dependency Court process. A guardian ad litem (GAL) is appointed to every child in Dependency Court. In some jurisdictions, the GAL is an attorney, but in SCC, the GAL is a Court Appointed Special Advocate (CASA). A lay person with extensive training, the CASA is expected to represent the child's "best interest" through establishing a relationship with the child and may be responsible for conducting interviews and investigations, making reports to the court, and/or participating in court hearings (Jones, 2006). The County's District Attorney provides legal representation for the child during the court process. Finally, a DFCS caseworker is responsible for ensuring the child's immediate health, safety, and educational needs are met as well as overseeing and designing case plans to ensure the child's future needs can be met. The DFCS caseworker also provides ongoing evaluations, reports, and recommendations to the court for the judge to consider regarding permanency.

DFCS caseworker responsibilities are broad and far-reaching. In addition to making recommendations for placement, a caseworker must also assess the family's need for services, provide such services, develop a plan for permanency, and design a visitation schedule (if the child has been removed from the home) (EMCF, 2000). Because concurrent planning is a SCC mandate, DFCS caseworkers must pursue two different paths to permanency at once; reunification (deemed the most desirable outcome) and an alternative long-term plan (preferably adoption over foster care). Caseworkers must develop a case plan for services and provide the

court with ongoing reports in addition to explaining the process, expectations, and possible outcomes to parents and should be tailored to the family's identified strengths (Jones, 2006).

### ***Attributes of a good caseworker***

In addition to being extremely knowledgeable about child protection law and practices, caseworkers must be able to engage parents in the Court process at the outset through open and direct communication (Bragg, 2003). Working with parents and encouraging, motivating, and inspiring them to take the necessary steps to retain or to regain custody of their children is important (Jones, 2006). Sincerity is critical to establishing a trusting relationship with parents and a good caseworker should be sensitive and responsive to questions, comments, and concerns throughout the process (Bragg, 2003). Investigation is a large part of casework and good investigation includes interviews with all relevant participants in the family's life, preservation of judgment, honesty about their role, and impartial evaluation of each situation as separate from another (Enos, 2003). A good caseworker genuinely cares about people, is a good listener, and is empathetic (Bragg, 2003). Well versed on the risks and indicators associated with DV, substance abuse, and child maltreatment, effective caseworkers will know what to look for and what questions to ask (Bragg, 2003).

### **Responding to adult and child victims**

The goal of child protection and family intervention is to ensure that children are safe, cared for appropriately, and nurtured. Unfortunately, until recently, many community responses to child abuse and DV have treated them as "separate phenomena" despite the fact that nearly twenty years of research has demonstrated that adults and children are often victimized in the same family (Schechter & Edleson, 1999). This practice is slowly changing and as a result DV victims' advocates and DFCS caseworkers are collaborating more regularly about services in

case plans that will best assist non-offending parents in protecting themselves and their children (Jones, 2006). There is little consensus as to whether a child's witnessing DV constitutes abuse or neglect or not, but advocates and DFCS caseworkers usually agree that child safety is increased when the mother receives services that enable her to become safe (Spears, 2000).

Greater safety for a mother and her children can be achieved by holding the battered accountable for the abuse (Spears, 2000). Batterer accountability may include restraining orders, prosecution of DV incidents, and batterer intervention programs, but each mandate in a case plan should be based on thorough examination of the situation to ensure safety risks to the mother and/or children are not increased as a result (Spears, 2000). Having established an open, trusting relationship with the non-offending parent can make conversations about such risks possible and can help DFCS determine appropriate mandated services that eliminate violence while working toward safely supporting a batterer's role as a parent (Jones, 2006; Spears, 2000). Ideally, the DFCS approach is compassionate and services in case plans are appropriate, available, affordable, and are reasonably easy to get to.

### ***Challenges***

DFCS investigators face numerous challenges, one of which is giving adequate weight to the violence in the home when evaluating other elements of child's environment (League of Women Voters [LWV], 1998). Statements made at a 1998 Annual Children's Defense Fund Conference on the topic of DV and child protection noted that a common problem was social workers only addressing other problems in the family, but not the violence (LWV, 1998). If the social worker does not realize there is domestic abuse involving the children, they focus on the victim, urging her to leave the perpetrator of the abuse, often unaware of the barriers to leaving

an abusive situation that the women face, such as need for housing, employment, and childcare (LWV, 1998).

A case plan that includes removal of the batterer from the home (or requires the mother and child leave) introduces new challenges for the mother. This type of order does not take into account the possibility of financial dependence that the mother may have on the batterer or the potential for an escalation of violence following separation (Christian, 2002). A mother who decides to stay with the batterer can face allegations of “failure to protect” and possible removal of her children. If this happens, advocates argue that DFCS is essentially revictimizing the mother and her children, discounting any protective strategies and efforts she has in place, and holding her accountable for what the batterer is responsible for (Christian, 2002).

Some battered women may not seek services to address the violence from fear of being considered neglectful and possible removal while others are indeed neglectful or abusive and may be unable to adequately protect their children due to the affect the abuse has had on them (Office on Child Abuse and Neglect [OCAN], 2003). DFCS substantiation for maltreatment should be consistent and appropriate and caseworkers should always make every effort to help mothers protect their children before resorting to coercive measures like the threat of “failure to protect” or protective custody (OCAN, 2003).

Multiple barriers can stand between a mother and her leaving a violent home with her children, whether they be access to necessary resources or emotional, spiritual, and/or cultural in nature. Available, safe, and low cost or free housing options are generally shelters that are only short-term and often do not accommodate children (Spears, 2000). Not infrequently, batterers either forbid or interfere with their partner’s participation in things like education, training, and employment, thereby making it difficult to secure the skills necessary to obtain a job in order to gain

financial independence (McKean, 2004). Religious beliefs may prevent a woman from considering divorce or raising a child without the presence of the father (Enos, 2003). For some women, the abuse can result in feelings of self-blame and lack of self-confidence or a belief that her children will face inescapable social and economic disadvantages without their father (Enos, 2003). There is also a very real threat that the batterer will retaliate by pursuing legal custody or worse, hurting or killing her or her children (Enos, 2003).

Battered women in either Dependency Court or family court are limited in their ability to defend themselves legally. Access to quality legal assistance is dependent upon financial means and according to Retired Supreme Court Judge, David Mitchell (previous Executive Director, National Council of Juvenile and Family Court Judges) indigent battered women face “woefully inadequate representation” (Mitchell, 2002, p. 2). A woman who cannot afford a private attorney must choose between the lesser of two evils: self-representation or counsel with insufficient available time to confer, lacking experience and specialization (Jaffe & Crooks, 2005).

### **Chapter III: Santa Clara County Data**

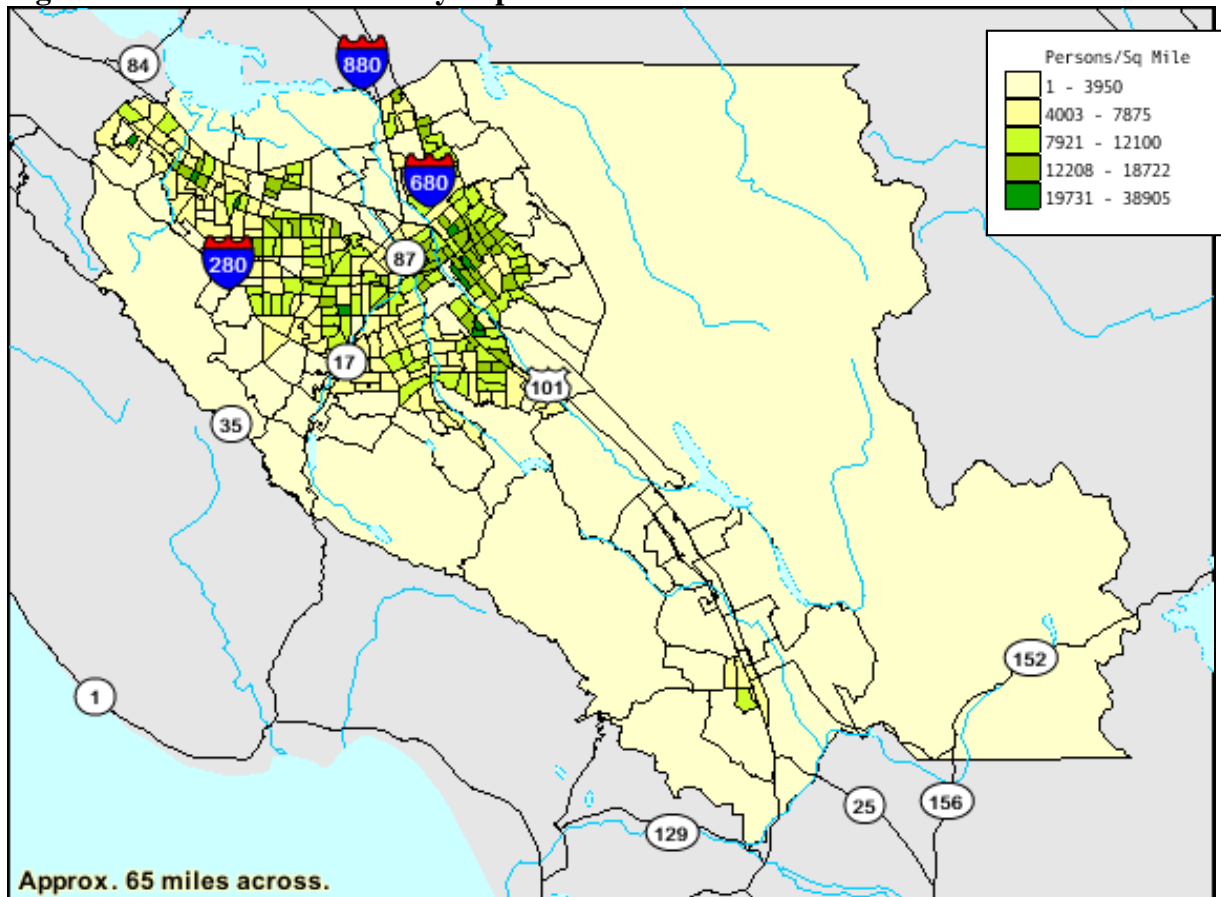
The following data were derived from professional trainings/meetings and observation of hearings and service delivery, as well as secondary data analysis (research and statistics on DV, CM, and demographics), and seven interviews conducted with a judge, social worker, DV advocates, and DV specialists during 2006. No single protocol was employed for every interview; questions were tailored to the individual being interviewed. The data gathering process began in February 2006 and ended in February 2007.

This chapter provides general and specific information pertinent to Santa Clara County (SCC). Broader County facts at the beginning give context for more detailed, location specific information that follows. Figures and comparisons are provided in order to highlight particular issues that affect family outcomes in South Santa Clara County (SSCC). Local policies and practices are discussed and the chapter ends with information regarding available services.

### Geography and population

Also referred to as Silicon Valley, SCC is known for its high cost of living, fast pace, and multi-ethnic communities. SCC is the fourth most populous county in California and it borders the counties of Alameda, Merced, San Benito, Santa Cruz, San Mateo, and Stanislaus. San Jose, Santa Clara, and Sunnyvale are the largest of a number of cities in the northern, urban portion of the county. Morgan Hill and Gilroy are the only two incorporated cities in the rural southern portion of the county. The population density per square mile in San Jose doubles that of SSCC (Census, 2000). Figure 3.1 shows a map of the county by population density.

**Figure 3.1 – Santa Clara County Population Densities**

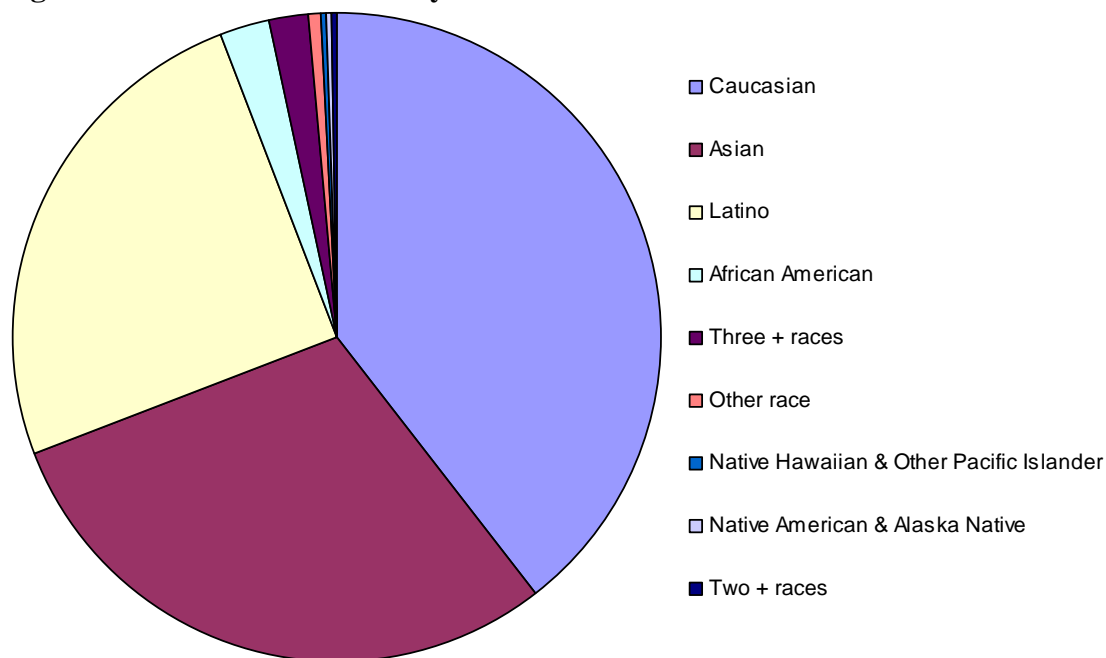


*Note: From Persons per Square Mile, 2000, U.S. Census Bureau.*

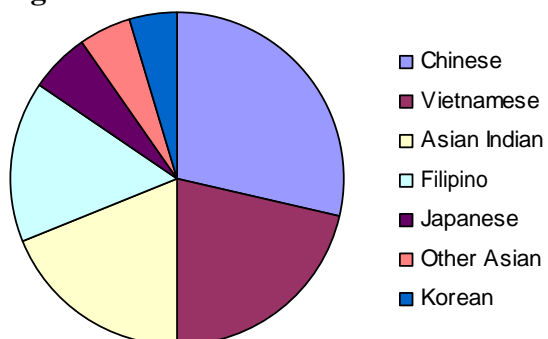
## Ethnicity

The county is influenced greatly by its diverse ethnic populations. Figures 3.2, 3.3, and 3.4 illustrate the county's population by ethnicity. With just over 51% of the residents in the city of San Jose speaking a language other than English in the home, Spanish, Vietnamese, Tagalog, Mandarin, Cantonese, and Hindi are common languages spoken throughout the county (Census, 2000).

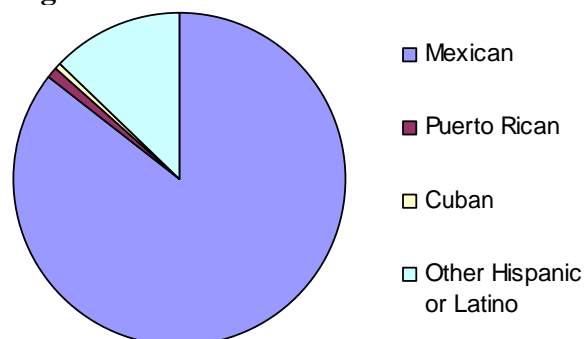
**Figure 3.2 – Santa Clara County Ethnic Breakdown**



**Figure 3.3 – Asian Ethnic Breakdown**



**Figure 3.4 – Latino Ethnic Breakdown**



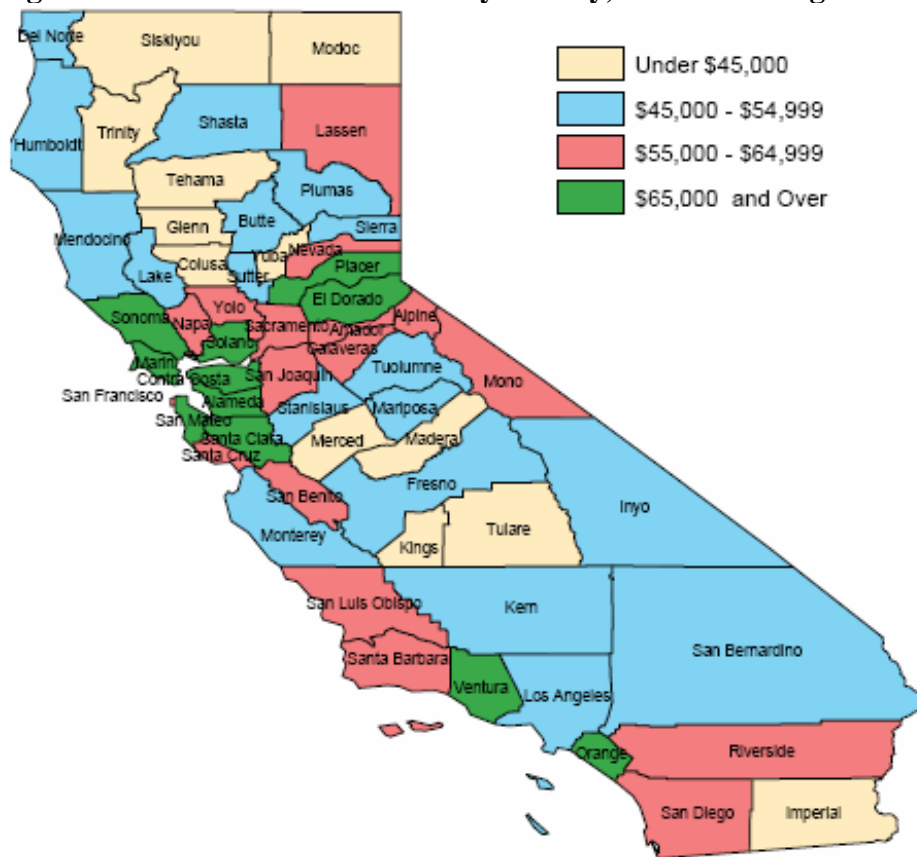
*Note. Graphs based on U.S. Census data from Santa Clara County, General Demographics Characteristics: 2005.*



## Income

Technology related businesses dominate the more populated North County, while agriculture and large retail businesses sustain the less populated South County. The median home price during 2006 in SCC was \$775,000; over three times higher than the national median of \$222,000 and double the median home price for the West Coast of \$351,200 (National Association of Realtors, 2006). Great disparity exists between those who can afford to live in area and those who struggle to make it financially. Although SCC had the third highest rate of median income in California in 2004 (figure 3.5), approximately 35% of the county's children in public schools were eligible for free lunches in 2004 (Franchise Tax Board [FTB], 2005; Kids Data [KD], 2006).

### Figure 3.5 – 2004 Median Income by County, Married Filing Joint



**Note. From *Annual Report 2005* published by the California State Franchise Tax Board. Information at: <http://www.ftb.ca.gov/aboutftb/annrpt/2005/2005AR.pdf>**

**DV and CM**

Inferences from a number of official reports can be used to get an idea of prevalence and demographic related information regarding DV and CM in the County, although limitations with each report must be considered when interpreting the data. The Santa Clara County Domestic Violence Council's (SCCDVC) Death Review Committee Report provides the number of DV related deaths and while providing one piece of demographic data related to DV, limitations exist because the number of deaths to total population is small and varies year to year. Official reports on call rates to law enforcement for DV provide some information about the rate of DV, but multiple factors affect call rates including housing density and dominate cultural beliefs in a community. The rate of foster care entry for children provides some information about the prevalence of CM, although entry does not consider unreported cases, children and families active in the DFCS and Dependency Court process, or children in alternate forms of care like adoption.

**Prevalence**

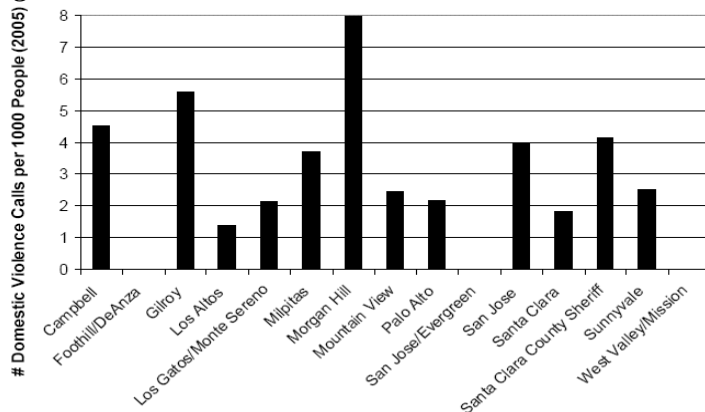
The SCCDVC Death Review Committee reported that in 2003, twenty-one of the total deaths and nearly half of year's thirty-eight homicides were DV related including five children (Santa Clara County Domestic Violence Council [SCCDVC], 2004). During 2005 in SCC there were 5,600 DV related calls to law enforcement and the District Attorney's (DA) office reviewed 5,871 DV cases (Community Solutions [CS], 2007; Greenbook, 2006). The DA issued 530 felonies and documented that 1,324 children were present, forty-eight cases involved parties of the same sex, 2,158 injuries were reported, and 129 of the victims were pregnant (Greenbook, 2006). These statistics may be low because not every incident is reported and of the incidents that are reported, not all of them make it to the District Attorney's office for review. Figure 3.2 is

a representation of the rate of DV related calls to law enforcement by jurisdiction in 2005 and illustrates significantly higher rates of calls in Morgan Hill, Gilroy, and Campbell respectively.

Figure 3.6, depicts rates of foster care entry in 2003 according to location throughout the county.

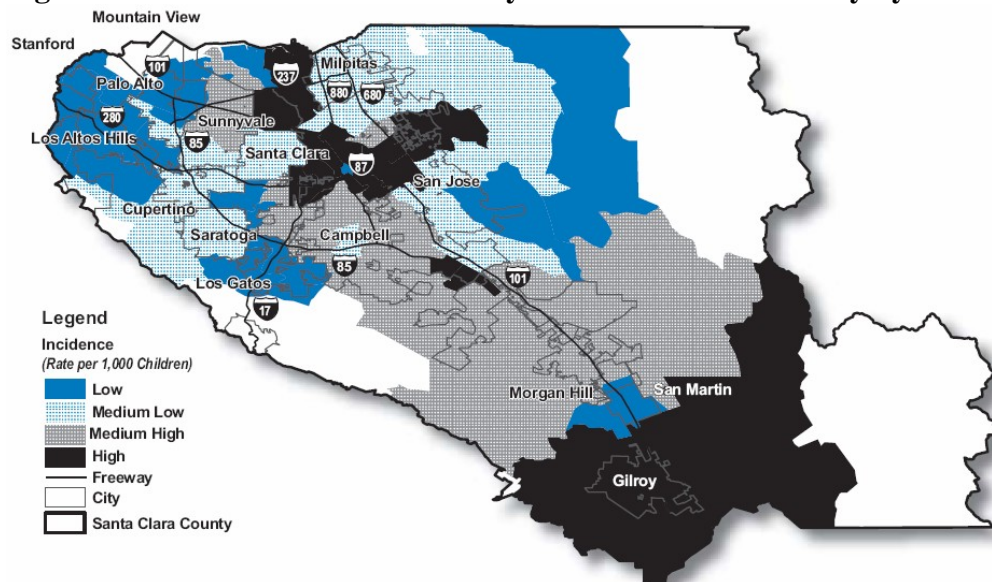
The highest rates of entry were in the cities and surrounding areas of Gilroy, San Jose, and Milpitas (SCC, 2005).

**Figure 3.6 – 2005 Domestic violence related calls to law enforcement by jurisdiction**



**Note.** From *Solutions to Violence, all day refresher [PowerPoint slide]* presented by Community Solutions May 16, 2006.

**Figure 3.6 – 2003 Santa Clara County rates of foster care entry by location**



**Note.** From *2005 Santa Clara County Children's Report: Key Indicators of Wellbeing*. Published by the Public Health Department of Santa Clara County. For more information go to [http://www.kidsincommon.org/childrens\\_report\\_2005.pdf](http://www.kidsincommon.org/childrens_report_2005.pdf).

## Demographics

Interestingly, depending on the source of information and type of violence, demographic characteristics of child and adult victims vary. Domestic-violence-related adult and child homicides in 2003 are racially broken down in figure 3.7, as specified by the Death Review Committee Final Report for 2003 (SCCDVC, 2004). A different breakdown in figure 3.8 lists the racial breakdown of all children in SCC and those involved with the DFCS (Greenbook, 2006). These figures illustrate great variations racially among the county's total population, those who died as a result of DV, and children that are involved with the Department of Family Children's Services. A larger percentage of DV related deaths compared to population occurred among African Americans, Hispanics, and Asians. Hispanic and African American children are overrepresented in DFCS while Asian and Caucasian children are underrepresented.

**Figure 3.7 – 2003 Santa Clara County domestic violence related homicides/suicides by race**

	<b>County Population</b>	<b>DV Deaths (21 Total)</b>
<b>Hispanic</b>	25%	33%
<b>Asian</b>	29%	33%
<b>Caucasian</b>	42%	14%
<b>African American</b>	3%	19%

Data for "Deaths" from *Death Review Committee final report, January 1 – December 31, 2003*, Santa Clara County Domestic Violence Council, Death Review Committee. Data for "County" from *United Way Silicon Valley Executive Summary 2003*.

**Figure 3.8 – 2005 Santa Clara County representation of children by race**

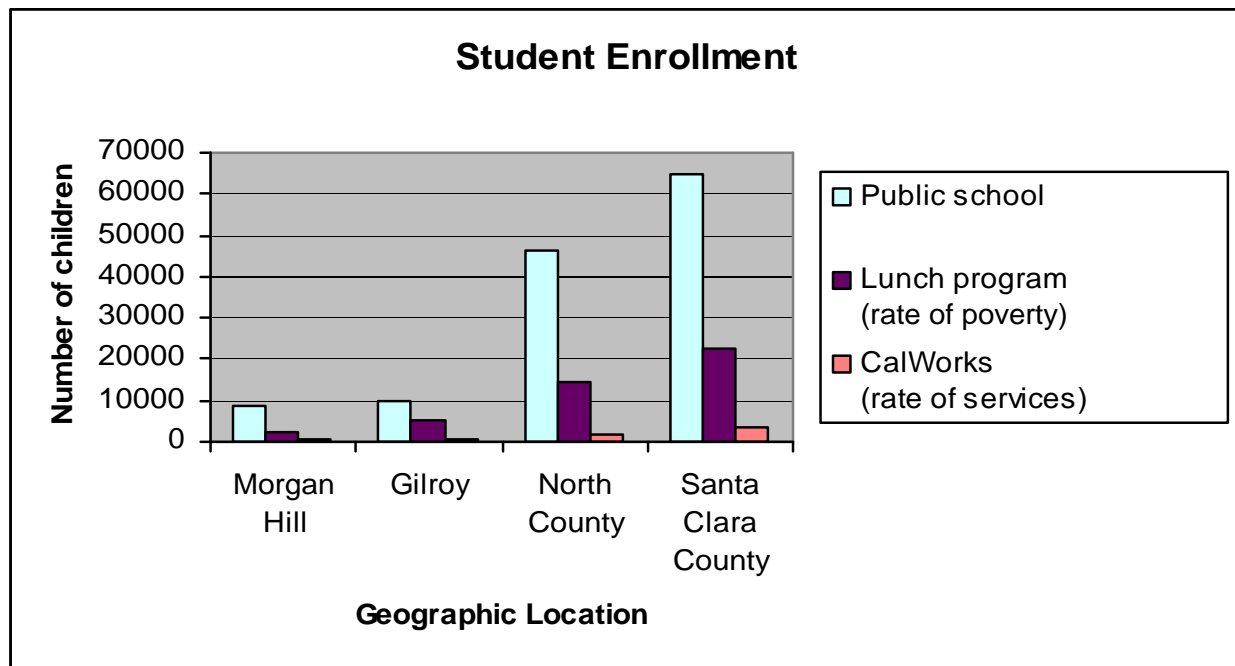
	<b>County Children</b>	<b>Child Welfare System</b>
<b>Hispanic</b>	30.0%	53.0%
<b>Asian</b>	21.0%	5.1%
<b>Caucasian</b>	45.0%	25.8%
<b>African American</b>	4.0%	14.0%

Data from *Juvenile Dependency Court Process* (Power Point presentation, slide 10) compiled, provided, and presented by Judge Shawna Schwarz, Juvenile Dep. Div. Santa Clara Co. Superior Court, at the Greenbook Project Training, June 23, 2006.

Family characteristics also differ greatly between domestic-violence-related deaths and families who are involved in the child welfare system. According to Juvenile Dependency Court Judge, Shawna Schwarz, more than 80% of the families that came before her court had substance and alcohol abuse issues (Greenbook, 2006). The same is also true of the majority of clients who work with Patricia Caradonna, Court and Community Domestic Violence Advocate at Community Solutions in SSCC (Caradonna, 2006). Greatly differing from those numbers are the only two cases out of twenty-one deaths in 2003 where the perpetrator had drug or alcohol issues (SCCDVC, 2004). Also, all ten of the adults who died had at least a high school education (six were college educated), whereas the majority of Caradonna's client's have less than a high school education and Judge Schwarz' families were described as generally having "lower levels of education" (SCCDVC, 2004; Caradonna, 2006; Greenbook, 2006).

### **Poverty as a risk factor**

Among researchers, the most agreed upon risk factor associated with DV is poverty (BMA, 2002). According to a number of surveys and reviews of child maltreatment cases conducted in the late 1990s, DV was documented in as many 51% (Carter, 1998). SCC, while having one of the highest median incomes in the country, still has a large population of people in poverty. Figure 3.9 represents the total number of children in public school as well as the ratio of children living below in poverty in 2004 who were in need of services compared to those actually who received services from CalWorks. *Note:* a child's family income must fall below 185% of the Federal Poverty Level (\$37,000 for a family of four) to qualify for reduced-cost meals (KD, 2006).

**Figure 3.9 – 2004 Santa Clara County rates of poverty and services received**

Data from *Public School Students Enrolled in the Free or Reduced Price Meal Program: 2004*, KidsData.org, a program of the Lucile Packard Foundation for Children's Health

### ***Gilroy***

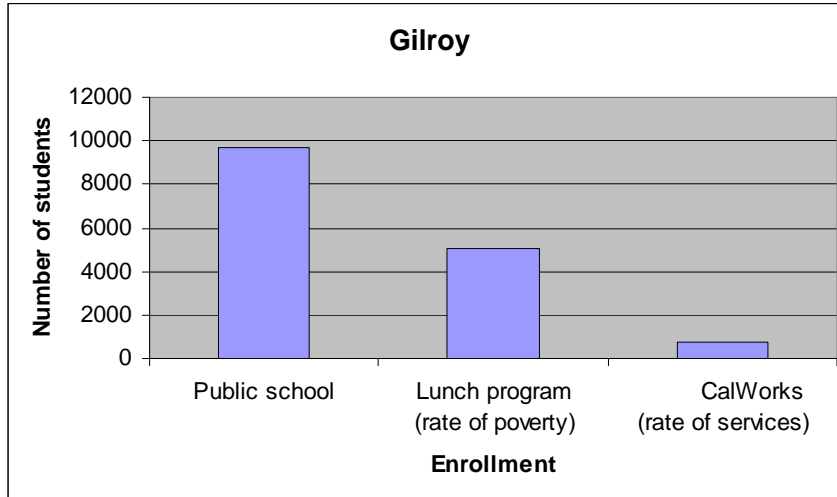
Families in Gilroy experience a high rate of poverty and other issues associated with external violence, discrimination, and barriers due to language, culture, or immigration status. Even though many families have contact with some helping systems, the majority do not have access to or are not receiving support services (Caradonna, 2006). Figure 3.10 illustrates the need for services in Gilroy where nearly half of all students enrolled in school are living in poverty and only a fraction are receiving services from CalWorks (KD, 2006).

### ***Morgan Hill***

Families in Morgan Hill experience less poverty, although discrimination and barriers due to language, culture, and immigration status are not uncommon. When compared to Gilroy, figure 3.11 reveals that there are fewer students enrolled in the meal program in Morgan Hill and

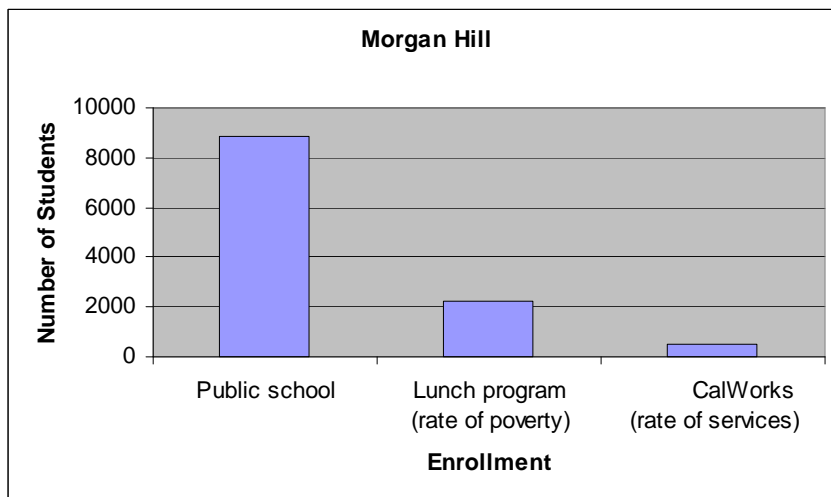
there is less disparity between children whose income would be eligible for CalWorks and those receiving it.

**Figure 3.10 – 2004 Gilroy rates of poverty and services received**



Data from *Public School Students Enrolled in the Free or Reduced Price Meal Program: 2004*, KidsData.org, a program of the Lucile Packard Foundation for Children's Health

**Figure 3.11 – 2004 Morgan Hill rates of poverty and services received**



Data from *Public School Students Enrolled in the Free or Reduced Price Meal Program: 2004*, KidsData.org, a program of the Lucile Packard Foundation for Children's Health

## Policies and Practices

### *Historic issues*

A number of Civil Grand Jury inquiries have addressed DV and CM related policies and practices in SCC. The 1992-93 Final Report on an investigation of the DFCS noted that due to “unjustified evaluation of child behavior [and] equally invalid conclusions about parents’ culpability... it does not take much of an allegation to land a child ‘in the system’”(SCC, 1993, pp. 3, 4). Elaborating, the Grand Jury went on to say that more than one DFCS program manager clearly stated, “once you are in the system you are in for life” The same report stated that “refusal to admit to abuse was viewed as lack of cooperation [and therefore] ...the child [would not be] returned” (SCC, 1993, p. 5). Regarding this type of response at DFCS, the Grand Jury alleged that there was “a standard line of thinking: that the alleged perpetrator must admit to the act as a condition for the return of the child [and] ...to not admit means that one is in denial and will offend again” (SCC, 1993, p.7). The report also noted that at the time, the “system did not foster enough coordination and collaboration among agencies responsible for protection of children” (SCC, 1993, p.8). The 1992-93 report was the first of two Civil Grand Jury reports to document the need for an adequate complaint process and a culturally insensitive environment (SCC, 1993; SCC, 2004b).

An inquiry into DFCS ten years later by the Civil Grand Jury indicated that, while some improvements had been made, other weaknesses still existed in the system. Lack of communication (verbally and in writing) with parents by social workers was documented in addition to an absence of required cultural sensitivity trainings (SCC, 2004b). Poor cultural sensitivity was brought to attention of Jurors in 1992 when “an Hispanic father was told the he and ‘his kind’ were known for sexually abusing their children” and was highlighted once again in 2003 when a senior social worker made an “ethnically insensitive comment to members of the Grand Jury” (SCC, 1993, p. 7; SCC, 2004b, p. 4). Jurors were pleased to learn that DFCS had



implemented Parent Orientations and Team Decision Making meetings in an effort to educate parents and engage a collaborative approach in working with families (SCC, 2004b). Ten years after the original Grand Jury investigation in 1992, DFCS was still struggling to implement a complaint process that ensured independent oversight of the Office of the Ombudsman (SCC, 2004b).

Two recent Civil Grand Jury inquiries describe concern for available services to victims of DV and the safety of children at the County's children's shelter (SCC, 2004a; SCC, 2003). Of great concern to the Jury was the fact that "in too many cases, the Shelter cannot provide either the safety or protection that ...children need. [The children are] ...hurting themselves ...sexually abusing other children ...contemplating suicide and ...making suicide attempts" (SCC, 2003, p.2). While the shelter is designed to be a temporary placement for children, the report sites that "many ...children remain in the Shelter for lengthy stays" (SCC, 2004a, p. 1).

The 2003-2004 Civil Grand Jury Inquiry Regarding Domestic Violence Services in SCC highlighted advances in collaborative responses to DV through the formation of the SCCDVC and the implementation of Greenbook (more information see *Current approach*) (CSS, 2004b). Jurors expressed concern over a lack of translation and emergency/transitional housing availability and services in the county (SCC, 2004b). Since that report was published, SCCDVC has created a housing committee and is addressing specific recommendations made by the Jury.

### ***Current approach***

SCC is one of six demonstrations sites for a federal initiative known as Greenbook, the common name for a program based on *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice, Recommendations from the National Counsel of Juvenile & Family Court Judges Family Violence Department*. With the

implementation of Greenbook in 2001, law enforcement, child welfare agencies, DC, and DV victims' advocates throughout the county have worked on a collaborative approach with one another in an effort to better serve and understand the needs of families who experience DV and CM. The original foundation for such collaboration was established in 1991 with the creation of the SCCDVC, an advisory body to the SCC Board of Supervisors (SCCDV, 2007).

Collaboratives have helped reduce the risk of poor family outcomes in SCC by bringing professionals together to discuss policies and best practices as well providing a safe place to discuss and work through differing institutional/systemic expectations. Some forums are designed to address specific cases so that appropriate services and referrals can be secured to ensure families have the tools they need to succeed. The SCCDVC Death Review Committee stated in their annual report that there is "system wide buy in [and the collaborative members] do not finger point [but rather are] looking for systems changes" (2003).

Goal setting is a significant function of the collaboratives. In 1991, Greenbook members agreed that they wanted to "build capacity within and across systems, design tools and strategies to share and manage information and resources, and create a feedback loop that will enable members to identify opportunities for evaluation, learning, and growth" (Greenbook, 2001). Goals for the SCCDVC include identification of best practices and gaps in DV services and advocacy to the Board of Supervisors for improvement of services to victims, batterers, children, families and communities (SCC, 2004).

An example of one of the ways in which one such goal has manifested itself is the practice of having parents attend a court orientation prior to the initial hearing. South Santa Clara practices have made attendance to such orientations mandatory for several years and North County has recently followed suit. While the concept and idea behind such an orientation is to

assist parents in understanding the court process, the approach still needs improvement (Caradonna, 2006). The orientations are structured to be a dialogue between DFCS and parents and include literature for parents to keep describing the process and services. Unfortunately, parents' participation is often limited because they are frequently still stunned by the allegations and intimidated by the authority of the facilitators (Caradonna, 2006).

Another common goal among County collaboratives is the improvement of DV services and members have generally agreed that training their staff on issues around DV is one way to improve such services. Most police officers, social workers, and attorneys receive DV training, but the training does not necessarily improve services. Many public defenders are still ill prepared to adequately represent battered mothers (Caradonna, 2006). DFCS social workers frequently include orders to stop seeing the batterer or to obtain a restraining order, but both could increase the risk of violence for the mother and/or her children (Caradonna, 2006). Despite DV training for all law enforcement in the County, some battered women in SSCC have gotten little help from officers who must respond to a second, third, or fourth call for DV complaints and still other women have gotten no response for reports of restraining order violations despite documented DV (Caradonna, 2006).

### ***Courtroom communication***

Juvenile Dependency Division of the Superior Court of SCC in San Martin hears cases related child maltreatment one day a week. During hearings, the formal communication that takes place is generally between the judge and other "parties to the matter" and are normally transcribed unless specified as "off the record" by the judge. The majority of the formal dialogue consists of reports to the judge about the status of children's placement and parents' progress on case plans. The judge may directly address children, mothers, and fathers, but most case related

Informal communication occurs frequently between the DV Court and Community Advocate (voluntary services, see *Services* in the next section) and DFCS Specialist (mandated services) as well as with the Deputy (bailiff). Both DV professionals rely on one another to stay current with DV related information in the community and between agencies. The Advocate or Specialist may make a referral for services to the other or they may collaborate to secure necessary services for a client in common. Both DV professionals communicate with the Deputy to identify cases with DV and ensure mothers receive appropriate services preceding or following a hearing. Minimal, if any, communication occurs between the Advocate and the District Attorney or Caseworker in general, but certain Caseworkers collaborate regularly with

the Advocate. No formal communication between the Judge and Advocate or Specialist takes place in the courtroom because they are not considered “parties to the matter” although in the community, they may collaborate on general DV related issues and services.

## **Services**

Greenbook monies fund two key victims’ advocacy positions, known as Court and Community Advocates (discussed in the previous section *Courtroom communication*). One advocate works with families in North County, is employed by Next Door Solutions to Violence in San Jose, and has an office in the Voluntary Family Maintenance unit in the DFCS offices in San Jose. The second advocate that works with families in South County is employed by Community Solutions (CS), but does not have an office in DFCS and works out of the CS office in Morgan Hill (see *Courtroom communication* above).

Access to court and legal services differ from South to North County. The main Juvenile Dependency Division of the SCC Superior Court is housed in San Jose on Terraine Street, with CM and DV cases being heard much more frequently than the South County court location in San Martin that hears cases one day a week. Drug Court, a unique program that works with a limited number of mothers who have substance and alcohol abuse issues in addition to DV and CM, is only available in San Jose. While extremely limited even in North County, the only available pro bono legal services are in San Jose. Other services only available in North County are the Family Court Clinic (provides free services to parents with children in foster care who cannot afford an attorney) and the Self Service Center (helps parents understand and navigate the legal process and use computers) (SCC, 2007a).

One of the most comprehensive one-stop community resources for DV and CM in the county is the Family Violence Center (FVC) located in San Jose. Police services are available to

residents of the San Jose Police Department's jurisdiction, but other people seeking DV and CM support services can get information and appropriate referrals. South County does not have any one resource like the FVC. Some of the comprehensive services available at the FVC include:

- Victim advocacy and counseling;
- Assistance with Temporary Restraining Orders
- Contact with Police Investigators who specialize in family violence and stalking
- Contact with attorneys from the DA's office;
- Contact with the probation department;
- Referrals for emergency housing;
- Child play area;
- Community education programs; and
- Access to personal safety devices (Family Violence Center, 2007).

Services for families with DV and CM are available in South County, but they are extremely limited in comparison to San Jose or other North County communities. According to Judge Schwarz, from San Martin (South County), one of the greatest challenges for families is getting access to very limited services stipulated in case plans (Schwarz, 2006). Waiting lists for counseling services in Spanish may be more than a month long in South County, affecting a parent's ability to complete a case plan within the legal time limit (Caradonna, 2006; Oriz, 2006). Other necessary translation services are also limited throughout the county (SCC, 2006b). In the last year, SCC's budget cuts ended the distribution of bus passes, limiting a client's ability to reach services both close to home or further away in North County (Caradonna, 2006).

## **Chapter IV: Conclusion, Recommendations, and Further Research**

### **Conclusion**

Considered a leader in changing the way systems and communities respond to DV and CM, SCC's collaborative efforts have broadened services available to families and have brought providers and agencies to the same table. Government and community based service providers and agencies that may have historically faced challenges working together from the use of differing languages, approaches, and outcomes are coming together to remove such barriers and improve family outcomes. Local collaboratives' policies and best practices are frequently referred to by other organizations around the country and used as a model from which to learn.

Although SCC's policies and practices are based on a collaborative approach as the ideal with improved family outcomes as the goal, not all policies articulated in writing have manifested themselves in daily practices. Issues of inconsistent or lacking referrals by DFCS social workers for available community services such as court and community DV advocates still occur regularly. Actual family outcomes and efficacy of services provided are questionable. Few resources (relative to time and energy put into meetings for collaboratives) are spent on getting feedback and evaluation of services from the individuals actually receiving such services. Such individuals are key stakeholders in the process and are almost non-existent in discussions about policies and best practices.

**Recommendations**

<b>Provider, governing authority, or responsible party</b>	<b>Primary Stakeholders</b>	<b>Secondary Stakeholders</b>	<b>Recommended Change</b>	<b>Benefit</b>	<b>Pertinent policies</b>	<b>Info. source</b>
Community Solutions, DFCS, and Gilroy Family Resource Center (GFRC)	Parents, children, DFCS caseworkers, CS CCA	DFCS, CS	CCA desk in GFRC with CCA working there at least part time	Improve So. County services by potentially increasing communication and relationship building between DFCS caseworkers and CS CCA, thereby increasing referrals and mutual/cooperative support	Collaboration, protection of confidential info. and info. sharing	Caradonna, 2006
Advocacy groups in cooperation with judiciary, Bar Association, court, and DFCS	Parents, attorneys, DFCS case workers, advocates	DFSC, Bar Association, Judiciary,	Agreements between agencies, attorneys, and advocates allow for and specifically define information sharing among the parent, court, attorney, and advocate	Allow parents to more fully engage in the judicial process by utilizing advocates to educate necessary parties about dynamics of DV. Pending consent, advocate may take more active role in parent's case plan, representation, and evaluation.	Mandatory reporting, confidentiality, and privileged information	Davies, 2003
Impartial third party (not associated with DFCS, courts, or any local area service providers or agencies that distribute funding for community services)	Parents and children	DFCS case workers and their attorneys, judges, advocates, and service providers	Establish "reasonable efforts" monitoring system that constantly audits whether or not DFCS are providing parents with "useful resources that enable them to provide a stable home environment and to promote the child's well-being" (Jones, 2006). Findings from audits and surveys of needs as identified by families themselves are used to	Improve services by introducing a constant feedback loop so that courts, DFCS, and the public know whether or not "reasonable efforts" are being made as mandated by the Adoption Assistance and Child Welfare Act of 1980 to avoid unnecessary removals of children and to reunify foster children with their families.	Resource allocation	Jones, 2006



			inform decisions around funding, availability, and quality of community services.			
Congressional lobbyists	Parents and children	DFCS caseworkers, attorneys, judges	Change case plan time restrictions to be reflective of adequate and actual time needed to address specific issues (i.e. domestic violence or substance abuse). This will require an amendment to Congress' Adoption and Safe Families Act of 1997.	Increase probability that parents will be able to satisfactorily complete the case plan.	Adoption and Safe Families Act of 1997	Jones 2006
Independent provider of research and program evaluation	Parents and children	DFCS caseworkers, attorneys, judges, service providers	All court mandated services in case plans are subjected to thorough testing and examination to determine if the participant outcomes are congruent with desired court ordered outcomes intended to improve child safety.	Increase probability of family safety and sustained unification by providing appropriate service delivery of essential skills and knowledge.	DFSC case plan service providers and judicial authorization	Jones 2006
Greenbook Project collaborative members and SCCDVC members	Parents and children, treatment centers, service providers, DFCS caseworkers, collaborative members	DFCS caseworkers, attorneys, judges, service providers	Prioritize the securing of funding for increased residential substance abuse treatment centers for mother <i>and</i> their children (either residing in center or allowing for adequate visits)	Address substance abuse as “a coping mechanism to deal with the [domestic] abuse and therefore a relevant service” (Enos, 2003) in order to increase the probability of successful recovery and family reunification while reducing future risk	Resource allocation	Enos, 2003

**Further research**

Key to any effort in working with families who experience DV and/or CM is understanding various factors and dynamics that affect them. It is imperative that DFCS and CCA client experiences are documented so that services can appropriately address needs. Further research regarding efficacy of services and client-identified needs should be priority for future research.

Worthy of note and warranting further research are the racial differences among DV related deaths, children in the child welfare system, and the total county population (as discussed in Chapter III: Santa Clara County Data, DV and CM, *Demographics*). Over- and under-representations of ethnicities differ between families with DV related deaths and families with children in the child welfare system. It would appear that people dying from DV are not the same people involved in the DFCS system. The well-documented overrepresentation of Hispanic and African American children in the child welfare system in SCC should continue to be research and addressed.

This study did not incorporate scientific collection of quantitative data regarding DC, DFCS, or CCA practices that are highly relevant to the many qualitative observations and discussions. In order to establish whether daily practices actually depart from written policy (and if so, to what degree), an observational study should be conducted using a scientific model.

## References

- Appointed Survey Research. (2006). *Final Evaluation Report of the Santa Clara County Greenbook Initiative 2001-2006*. Retrieved March 10, 2007, from [http://www.kidsincommon.org/greenbook/greenbook\\_mar\\_07.pdf](http://www.kidsincommon.org/greenbook/greenbook_mar_07.pdf)
- Aron, L. Y., Olson, K. K. (1997, March). Domestic violence unit, Massachusetts Department of Social Services. In *Efforts by child welfare agencies to address domestic violence: the experiences of five communities* (chap. 4). Retrieved January 3, 2007, from <http://aspe.hhs.gov/HSP/cyp/dv/pt4.htm>
- Bragg, H. L. (2003). *Child protection in families experiencing domestic violence*. U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. Retrieved May 25, 2006, from <http://www.childwelfare.gov/pubs/usermanuals/domesticviolence/domesticviolence.pdf>
- British Medical Association. (2002, February). *Preventing domestic violence*. British Medical Association Journal.
- California Attorney General. (2005). *2005 report from the California Attorney General's Task Force on Local Criminal Justice Response to Domestic Violence: Keeping the promise – victim safety and batterer accountability*. Safe State, Crime and Violence Prevention Center website. Retrieved April 15, 2006, from <http://safestate.org/index.cfm?navID=9>
- Carter, J. (1998). *Domestic violence, child abuse, and youth violence: strategies for prevention and early intervention*. Family Violence Prevention Fund. Retrieved March 30, 2006 from <http://www.mincava.umn.edu/link/documents/fvpf2/fvpf2.shtml>

- Child Welfare Information Gateway. (n.d.). *California statutes search: domestic violence, child abuse and neglect*. Retrieved January 22, 2007, from [http://www.childwelfare.gov/systemwide/laws\\_policies/search/results/searchresults.cfm](http://www.childwelfare.gov/systemwide/laws_policies/search/results/searchresults.cfm)
- Child Welfare League of America. (n.d.). *Summary of the Adoption and Safe Families Act of 1997*. Retrieved January 22, 2007, from <http://www.cwla.org/advocacy/asfap1105-89summary.htm>
- Christian, S. (2002, January). Children's exposure to domestic violence: is it child abuse? [Electronic version]. *State Legislative Report, Analysis of State Actions on Important Issues. National Conference of State Legislators* 27(1). Retrieved November 20, 2006, from <http://www.ncsl.org/legis/SLRs/slr271.htm>
- Community Solutions. (2006, May 16). *Solutions to Violence all day refresher* [Power Point presentation]. Gilroy, CA: Author.
- Community Solutions. (2007a). *Domestic violence: far-reaching implications* [Power Point presentation]. Morgan Hill, CA: Author.
- Community Solutions. (2007b). *The mission*. Morgan Hill, CA: Author. Retrieved February 14, 2006, from <http://www.communitysolutions.org/>
- Davidson, T. (1978). *Conjugal crime: understanding and changing the wifebeating pattern*. New York: Hawthorn Books.
- Davies, J. (2001). *Building comprehensive solutions to domestic violence: introduction to policy advocacy and analysis* [slide presentation]. The National Resource Center on Domestic Violence Slide Presentation. Retrieved on January 13, 2006, from [http://new.vawnet.org/Assoc\\_Files\\_VAWnet/BCS\\_poladv\\_overheads.pdf](http://new.vawnet.org/Assoc_Files_VAWnet/BCS_poladv_overheads.pdf)

- Davies, J. (2003). *Confidentiality and information sharing issues for domestic violence advocates working with child protection and juvenile court systems*. Family Violence Prevention Fund. Retrieved December 13, 2006, from [www.endabuse.org/programs/children/files/InfoSharing.pdf](http://www.endabuse.org/programs/children/files/InfoSharing.pdf)
- Davies, J., & Lyon, E. (1998). *Safety planning with battered women, complex lives/difficult choices*. Thousand Oaks, CA: Sage Publications.
- Domestic Abuse Intervention Project. (2007). Retrieved January 3, 2007.
- Dutton, D. (2000). A review of domestic violence risk instruments. *Journal of Trauma, Violence and Abuse, 1*(2), 171-181.
- Edleson, J. L. (1999a). *The overlap between child maltreatment and woman abuse*. National Resource Center on Domestic Violence. Retrieved March 30, 2006, from [http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR\\_overlap.php](http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR_overlap.php)
- Edleson, J. L. (1999b). *Problems associated with children's witnessing of domestic violence*. National Resource Center on Domestic Violence. Retrieved June 24, 2006, from <http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs>
- Edleson, J. L., Beeman, S. K. (1999, August). *Responding to the co-occurrence of child maltreatment and adult domestic violence in Hennepin County*. Department of Children and Family Services, Hennepin County, Minnesota. Retrieved February 4, 2007 from [www.mincava.umn.edu/link/documents/finrport/finrport.shtml](http://www.mincava.umn.edu/link/documents/finrport/finrport.shtml)
- Edna McConnell Clark Foundation. (2000). *Making reasonable efforts: a permanent home for every child*. Retrieved June 20, 2006 from [www.familyrightsassociation.com/bin/white\\_papers-articles/reasonable\\_efforts/](http://www.familyrightsassociation.com/bin/white_papers-articles/reasonable_efforts/)

- Enos, V. P. (2003). *Learning from the experiences of battered immigrant, refugee and indigenous women involved with Child Protective Services to inform a dialogue among domestic violence activists and advocates*. Asian & Pacific Islander Institute on Domestic Violence, National Network to End Violence Against Immigrant Women, Institute on Race and Justice at Northeastern University, Family Violence Prevention Fund. Retrieved August 13, 2006, from <http://www.apiahf.org/apidvinstitute/PDF/EnosReport.pdf>
- Family Violence Prevention Fund. (2006). *History of the Violence Against Women Act*. Retrieved March 20, 2006.
- Family Violence Center. (2007). *Services provided at the Family Violence Center*. San Jose Police Department. Retrieved January 10, 2007 from <http://www.sjpd.org/fvc/fv2.html#services>
- Greenbook. (2001). *Effective intervention in domestic violence & child maltreatment cases: guidelines for policy and practice*. Family Violence Department of the National Council of Juvenile & Family Court Judges. Retrieved May 3, 2006, from Greenbook FAQ
- Greenbook. (2006, June). *Domestic violence, child abuse, & Dependency Court: understanding the overlap, a Greenbook project training, June 23, 2006*. National Council of Juvenile and Family Court Judges, Family Violence Department.
- Hardin, M. (2002). *How and why to involve the courts in your Child and Family Services Review: suggestions for agency administrators*. Retrieved January 13, 2007 from <http://www.abanet.org/child/courtimp.html>
- Imbrogno, A., Imbrogno S. (2000). Mediation of court cases of domestic violence. *Families in Society* 81(4), 394-401.

- Jaffe, P. G., Crooks, C. V. (2005, February). *Understanding women's experiences parenting in the context of domestic violence implications for community and court related service providers*. Violence Against Women Online Resources. Retrieved June 20, 2006, from [www.vaw.umn.edu/documents/commissioned/parentingindv/parentingindv.html](http://www.vaw.umn.edu/documents/commissioned/parentingindv/parentingindv.html)
- Jewkes, R. (2002). Intimate partner violence: causation and primary prevention. *The Lancet*, 359(9315), 1423-1429.
- Jones, W. G. (2006). *Working with the courts in child protection*. U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Office on Child Abuse and Neglect. Retrieved May 26, 2006, from <http://www.childwelfare.gov/pubs/usermanuals/courts/acknow.cfm>
- Kids Data. (2006). *Community resources: free/reduced cost school meals*. Retrieved May 26, 2006, from [http://www.kidsdata.org/topictables.jsp?i=1&t=23&ra=5\\_4&o\\_id=0&pi=&yr=7&sort=a&nf=1&sh=1&menuused=updateFXT&x=161&y=11](http://www.kidsdata.org/topictables.jsp?i=1&t=23&ra=5_4&o_id=0&pi=&yr=7&sort=a&nf=1&sh=1&menuused=updateFXT&x=161&y=11)
- Knitzer, J. (1976, April) Child advocacy: a perspective. *American Journal of Orthopsychiatry* 46 (2): 200-216
- League of Women Voters. (1998). *Juvenile justice in California, part II: dependency system: facts & issues*. Sacramento, CA: Author. Retrieved March 7, 2006, from <http://ca.lwv.org/jjds/chap2.html>
- Mitchell, D. B. (2002, March 7). *Congressional briefing testimony on behalf of the National Council of Juvenile and Family Court Judges: Stop Violence Against Women*. Retrieved November 3, 2006, from [http://www.thegreenbook.info/documents/mitchell\\_test.pdf](http://www.thegreenbook.info/documents/mitchell_test.pdf)

National Association of Counsel for Children. (2005). *Children and the law: child maltreatment*.

Denver, CO: Author. Retrieved September 11, 2006, from

<http://www.naccchildlaw.org/childrenlaw/childmaltreatment.html>

National Association of Realtors. (2006). *Median prices for existing single-family homes*.

Retrieved March 1, 2007, from

[http://www.realtor.org/Research.nsf/files/MSAPRICESF.pdf/\\$FILE/MSAPRICESF.pdf](http://www.realtor.org/Research.nsf/files/MSAPRICESF.pdf/$FILE/MSAPRICESF.pdf)

National Organization for Women. (1995). *Violence against women in the United States*.

Retrieved May 17, 2006 from <http://www.now.org/issues/violence/stats.html>

Next Door Solutions to Violence. (2006). *40-hour domestic violence California certification training*. CA: Author.

Pennsylvania Coalition Against Domestic Violence. (n/d). *Seeking justice: legal advocacy principles and practice*. PA: Author.

Peterson, D. (1998). *What trouble I have seen: a history of violence against wives*. Cambridge, MA: Harvard University Press.

Prah, P. M. (2006, January 6). Domestic violence: do teenagers need more protection? *CQ Researcher*, pp. 1-24.

Princeton University. (2007). *Advocacy* [definition]. Retrieved February 3, 2007, from <http://wordnet.princeton.edu/perl/webwn?s=advocacy>.

Santa Clara County. (1993). *Final report on the investigation of the Department of Family and Children's Services, 1992-1993*. Santa Clara County Civil Grand Jury. Retrieved November 20, 2006, from [http://www.liftingtheveil.org/sc\\_jury.txt](http://www.liftingtheveil.org/sc_jury.txt)



Santa Clara County. (2003). *2002-2003 Inquiry into the effectiveness of the children's shelter.*

Santa Clara County Civil Grand Jury. Retrieved January 12, 2007, from

[www.sccsuperiorcourt.org/jury/GJreports/2003/InquiryChildrensShelter.pdf](http://www.sccsuperiorcourt.org/jury/GJreports/2003/InquiryChildrensShelter.pdf)

Santa Clara County. (2004a). *Final report on the inquiry regarding domestic violence services in*

*Santa Clara County, 2003-2004.* Santa Clara County Civil Grand Jury. Retrieved

November 20, 2006, from

<http://www.sccsuperiorcourt.org/jury/GJreports/2004/DVServicesSCCounty.pdf>

Santa Clara County. (2004b). *2003-2004 Inquiry into the Department of Family and Children's*

*Services.* Santa Clara County Civil Grand Jury. Retrieved November 20, 2006, from

<http://www.sccsuperiorcourt.org/jury/GJreports/2004/DFCSCCounty.pdf>

Santa Clara County. (2005). *2005 Santa Clara County children's report: key indicators of well-*

*being.* Public Health Department. Retrieved November 20, 2006, from

[http://www.kidsincommon.org/childrens\\_report\\_2005.pdf](http://www.kidsincommon.org/childrens_report_2005.pdf)

Santa Clara County. (2006a). *Family violence best practice guide.* Santa Clara County Social

Services Agency Department of Family and Children's Services. Retrieved December 7,

2006, from [http://www.growing.com/nonviolent/worker/fvp\\_best.htm](http://www.growing.com/nonviolent/worker/fvp_best.htm)

Santa Clara County. (2006b). *Final report on the inquiry regarding reducing language barriers*

*in domestic violence calls, 2005-2006.* Santa Clara County Civil Grand Jury. Retrieved

January 16, 2007, from [http://sunnyvale.ca.gov/NR/rdonlyres/A1893F73-15A7-4181-](http://sunnyvale.ca.gov/NR/rdonlyres/A1893F73-15A7-4181-A073-C1906221396D/0/82206GrandJuryReportRTC.pdf)

[A073-C1906221396D/0/82206GrandJuryReportRTC.pdf](http://sunnyvale.ca.gov/NR/rdonlyres/A1893F73-15A7-4181-A073-C1906221396D/0/82206GrandJuryReportRTC.pdf)

Santa Clara County. (2007a). *Going to Court.* Child Support Services. Retrieved January 20

2007, from [http://www.sccgov.org/sccsearch/ui.jsp?ui\\_mode=answer&prior\\_transaction\\_](http://www.sccgov.org/sccsearch/ui.jsp?ui_mode=answer&prior_transaction_id=22243&iq_action=5&answer_id=16777218&highlight_info=4216218,301,310&turl=)

[id=22243&iq\\_action=5&answer\\_id=16777218&highlight\\_info=4216218,301,310&turl=](http://www.sccgov.org/sccsearch/ui.jsp?ui_mode=answer&prior_transaction_id=22243&iq_action=5&answer_id=16777218&highlight_info=4216218,301,310&turl=)

[https://www.sccgov.org/portal/site/dfcss/menuitem.2E244564f66e6d425580b558bb35cda429?path=/2Fv7%2FChild%20Support%20Services%20C%20Department%20of%20%2528DEP%2529%252FGoing%2520To%2520Court#\\_\\_highlight](https://www.sccgov.org/portal/site/dfcss/menuitem.2E244564f66e6d425580b558bb35cda429?path=/2Fv7%2FChild%20Support%20Services%20C%20Department%20of%20%2528DEP%2529%252FGoing%2520To%2520Court#__highlight)

Santa Clara County. (2007b). *Mission and vision*. Dispute resolution program services. Retrieved January 20 2007, from <http://www.sccgov.org/portal/site/drps/>

Santa Clara County. (2007c). *Welcome new DFCS ombudsman, Brohne Lawhorne*. Dispute Resolution Program Services. Retrieved January 20 2007, from <http://www.sccgov.org/portal/site/drps/menuitem.311b6004a2316af82b9900dd5a30a429?path=/2Fv7%2FDispute%20Resolution%20Program%20Services%20%28PRG%29%2FChild%20Welfare%20Ombuds&contentId=c8295634ce5c4010VgnVCM10000048dc4a92>

Santa Clara County Domestic Violence Council. (2004). *Death Review Committee final report January 1 – December 31, 2003*. Retrieved January 16, 2007, from <http://www.cacsc.org/resources/cdrt2003.pdf>

Santa Clara County Domestic Violence Council. (2005). *Policies and procedures manual*. Retrieved January 16, 2007, from [http://www.sccgov.org/SCC/docs/2FHuman%20Relations,%20Office%20of%20\(DEP\)%2FAttachments%2FDVC\\_attachments%2FDVC\\_Policies\\_and\\_Procedures\\_Draft\\_10-18-05.doc](http://www.sccgov.org/SCC/docs/2FHuman%20Relations,%20Office%20of%20(DEP)%2FAttachments%2FDVC_attachments%2FDVC_Policies_and_Procedures_Draft_10-18-05.doc)

Santa Clara County Domestic Violence Council. (2007). *Policies and procedures manual*. Retrieved January 16, 2007, from <http://www.sccgov.org/portal/site/ohr/menuitem.244564f66e6d425580b558bb35cda429/?path=/2Fv7%2FHuman%20Relations%20C%20Office%20of%20%28DEP%29%2FDomestic%20Violence%20Council>

- Schechter, S., Edleson, J. I. (1994). *In the best interest of women and children: a call for collaboration between child welfare and domestic violence constituencies*. National Council of Juvenile and Family Court Judges, Family Violence Department. Retrieved September 11, 2006, from <http://www.mincava.umn.edu/documents/wingsp/wingsp.html>
- Schechter, S., Edleson, J. I. (1999, June). *Effective intervention in domestic violence & child maltreatment cases: a guideline for policy and practices*. National Council of Juvenile and Family Court Judges, Family Violence Department. Retrieved September 11, 2006, from <http://www.vaw.umn.edu/documents/executvi/executvi.html>
- Shepard, M. (1999, April). *Evaluating coordinated community responses to domestic violence*. National Resource Center on Domestic Violence. Retrieved June 24, 2006, from [http://new.vawnet.org/Assoc\\_Files\\_VAWnet/AR\\_ccr.pdf](http://new.vawnet.org/Assoc_Files_VAWnet/AR_ccr.pdf)
- Spears, L. (2000). *Building bridges between domestic violence organizations and Child Protective Services*. National Resource Center on Domestic Violence. Retrieved June 24, 2006, from <http://www.vaw.umn.edu/documents/dvcps/dvcps.html>
- Sullivan, C. M., & Keefe, M. (1999, April). *Evaluations of advocacy efforts to end male violence against women*. National Resource Center on Domestic Violence. Retrieved June 24, 2006, from [http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR\\_advocacy.php](http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR_advocacy.php)
- Support Network for Battered Women. (2007). *Who is Home Safe?* Retrieved January 14, 2007, from <http://www.snbw.org/homesafe/seven.html>
- World Health Organization. (2005). *Study on domestic violence* Retrieved March 30, 2006, from [http:](http://)

United Nations Children's Fund Innocenti Research Centre. (2000). *Domestic violence against women and girls*. Retrieved July 10, 2006, from <http://www.violencestudy.org/a351>

United States Department of Health and Human Services. (2006). *Child maltreatment report 2004*. Administration for Children and Families, Administration on Children, Youth and Families. Washington, DC: U.S. Government Printing Office. Retrieved January 15, 2007, from <http://www.acf.hhs.gov/programs/cb/pubs/cm04/index.htm>

## Appendix A

### Data Collection: Interviews

Bennett, Patricia. Next Door Solutions to Violence

August 16, 2006, Personal interview, *Woman based advocacy*

Next Door Solutions to Violence, 234 Gish Road, San Jose, CA

Caradonna, Patricia. Court and Community Advocate, Community Solutions

February 2006 through February 2007, Ongoing communications and shadowing

*Woman based legal domestic violence advocacy and Dependency Court*

Koranrakar, Betty. Court and Community Advocate, Next Door Solutions to Violence

August (12), 2006, Personal interview, *Domestic violence advocacy within DFCS*

Department of Family and Children's Services, 333 Julian Street, San Jose, CA

Marshall, Nancy. LMFT, Domestic Violence Specialist, Contractor, Santa Clara County

March 23, 2006, Personal interview and shadowing, *Domestic violence intervention, therapy, and services for women and children in dependency drug court*

Dependency Drug Treatment Court, Department 67, 115 Terraine Street, San Jose, CA

Ortiz, Sarah. Domestic Violence Specialist, Department of Family and Children's Services,

August 2006, Discussions and shadowing, *Court mandated domestic violence services*

Gilroy Family Resources Center, Gilroy, CA: Susan Shanahan.

Shekar, Nalini. (2006, August 11). *Director of Advocacy at Next Door Solutions to Violence on*

*woman based advocacy* [Personal interview]. San Jose, CA: Susan Shanahan.

Shwarz, Shawna. (2006, August 25). *Juvenile Court Judge, Dependency Division, Santa Clara*

*County Superior Court on advocacy in the judicial process* [Personal interview]. San

Martin, CA: Susan Shanahan.

## **Appendix B**

### **Data Collection: Professional Trainings, Workshops, and Observations**

California Domestic Violence Certification, Next Door Solutions to Violence, DATES?

*Information and Resource Workshop Regarding Domestic Violence*

August 11, 2006, Workshop, hosted by Asian Pacific Family Resource Center

625-F Wool Creek Drive, San Jose, CA 95112

Domestic Violence, Child Abuse, & Dependency Court: Understanding the Overlap Greenbook

June 23, 2006, Greenbook Training

Department of Family and Children's Services: 333 Julian Street, San Jose, CA

Santa Clara County Greenbook Project, Implementation Team

August 18, 2006, Team Meeting

San Jose City Hall, 200 E. Santa Clara Street, Room W-120, San Jose, CA

Santa Clara County Greenbook Project, Partnership Project

August 16, 2006, Partnership Meeting

Next Door Solutions to Violence, 234 Gish Road, San Jose, CA

Beyond the Bench, Santa Clara County Superior Court, Dependency Division

October 20, 2006, Multi-Disciplinary Training for Judges, Social Works and Advocates

Masonic Temple, 2500 Masonic Drive, San Jose, CA

Strengthening Families Program Training, July 31 and August 1, 2006, Silicon Valley United

Way, 1922 The Alameda, Conference Room, San Jose, CA

Dependency Court Room Observations. February - November 2006. Approx., twice a month.

## Appendix C

### Glossary of Terms

Combined and adapted from *Child Abuse and Neglect User Manual Series: Working with the Courts in Child Protection* and *Child Protection in Families Experiencing Domestic Violence* distributed by the U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Office on Child Abuse and Neglect. For more information go to

**Adjournment** – the suspension of business or sessions, either for a fixed time, indefinitely, or until the opening of another term.

**Adjudicatory Hearings** – held by the juvenile and family court to determine whether a child has been maltreated or whether another legal basis exists for the State to intervene to protect the child.

**Adoption and Safe Families Act (ASFA)** – signed into law November 1997 and designed to improve the safety of children, to promote adoption and other permanent homes for children who need them, and to support families. The law requires CPS agencies to provide more timely and focused assessment and intervention services to the children and families that are served within the CPS system.

**Bad Touch** – a term used by primary prevention programs for children to describe hitting, punching, biting, sexually stimulating touch, and other harmful acts.

**CASA** – court-appointed special advocates (usually volunteers) who serve to ensure that the needs and interests of a child in child protection judicial proceedings are fully protected.

**Case Closure** – the process of ending the relationship between the CPS worker and the family that often involves a mutual assessment of progress. Optimally, cases are closed when families have achieved their goals and the risk of maltreatment has been reduced or eliminated.

**Case Plan** – the casework document that outlines the outcomes, goals, and tasks necessary to be achieved in order to reduce the risk of maltreatment.

**Case Planning** – the stage of the CPS case process where the CPS caseworker develops a case plan with the family members.

**Caseworker Competency** – demonstrated professional behaviors based on the knowledge, skills, personal qualities, and values a person holds.

**Central Registry** – a centralized database containing information on all substantiated/founded reports of child maltreatment in a selected area (typically a State).

**Child Abuse Prevention and Treatment Act (CAPTA)** – see Keeping Children and Families Safe Act.

**Child Protective Services (CPS)** – the designated social services agency (in most States) to receive reports, investigate, and provide intervention and treatment services to children and families in which child maltreatment has occurred. Frequently, this agency is located within larger public social service agencies, such as Departments of Social Services.

**Civil Contempt** – the willful failure to do something that a court has ordered, such as refusing to testify when the court has found that no privilege applies or refusing to pay child support when there are ample funds to do so. The usual sanction is incarceration for a term that lasts until the person in contempt complies with the court order.

**Concurrent Planning** – identifies alternative plans for permanent placement of a child by addressing both reunification and legal permanency with a new parent or caregiver if reunification efforts fail.

**Confusing Touch** – a term used by primary prevention programs for children to describe any type of contact that “does not feel right.”

**Consent Decree** – a decree entered by a court that is determined by the parties’ agreement; a settlement between the parties that is subject to judicial approval and supervision.

**Continuance** – an adjournment of a case from one day to another or to a later hour of the same day.

**Criminal Contempt** – an act that obstructs justice or attacks the integrity of the court that is punishable by fine or imprisonment or both. Criminal contempt may be indirect or direct. Indirect contempt is contempt occurring outside the courtroom, such as a willful violation of a court’s order. Direct contempt is disruptive or disrespectful behavior that occurs in the presence of the judge, such as uttering an epithet when the judge announces an unfavorable decision.

**Cross-examination** – questioning of a witness by attorneys other than the one who called the person as a witness.

**Cultural Competence** – a set of attitudes, behaviors, and policies that integrates knowledge about groups of people into practices and standards to enhance the quality of services to all cultural groups being served.

**Declaratory Judgment** – a court decision which simply declares the rights of the parties or expresses the opinion of the court on a question of law without ordering anything to be done.

**Delinquency** – the commitment of an offense by a youth of what would be a crime if he or she were an adult.

**Dependent Child** – as used in statutes providing for the care of dependent, neglected, and delinquent children, the term means dependent upon the public support; any child under the age of 18 who is destitute, or whose home by reason of neglect by the parents is an unfit place for such child, or whose father, mother, guardian, or custodian does not properly provide for such a child.

**Depositions** – transcribed oral examinations under oath.



**Differential Response** – an area of CPS reform that offers greater flexibility in responding to allegations of abuse and neglect. Also referred to as “dual track” or “multi-track” response, it permits CPS agencies to respond differentially to children’s needs for safety, the degree of risk present, and the family’s needs for services and support. See “dual track.”

**Discovery** – pretrial process that allows each party to obtain information relevant to the case from the other parties.

**Dispositional Hearings** – held by the juvenile and family court to determine the legal resolution of cases after adjudication, such as whether placement of the child in out-of-home care is necessary and what services the children and family will need to reduce the risk of maltreatment and to address the effects of maltreatment.

**Domestic Violence Offender Intervention Program** – typically court-ordered programs for domestic violence offenders that hold them accountable for their actions and identify alternate appropriate and non-violent behaviors. Usually held in a group format where participants learn about the dynamics of domestic violence, its effects on both the adult and child victims, and issues of power and control. Also known as Batterer Intervention Program.

**Domestic Violence Victims Advocates** – individuals, both professional and volunteer, who advocate for the rights and safety of adult victims and children and help connect them to appropriate resources.

**Dual Track** – term reflecting new CPS response systems that typically combine a nonadversarial service-based assessment track for cases where children are not at immediate risk with a traditional CPS investigative track for cases where children are unsafe or at greater risk for maltreatment. See “differential response.”

***Duces Tecum*** – a type of subpoena or court order that requires a person to produce for the court specified documents or records.

**Due Process** – The principle that every person has the protection of a day in court, representation by an attorney, and the benefit of procedures that are speedy, fair, and impartial.

**Evaluation of Family Progress** – the stage of the CPS case process where the CPS caseworker measures changes in family behaviors and conditions (risk factors), monitors risk elimination or reduction, assesses strengths, and determines case closure.

***Ex Parte*** – on behalf of or involving only one party to a legal matter and in the absence of and usually without notice to the other party.

**Exculpatory** – evidence or testimony that exonerates or clears the defendant.

**Expert Testimony** – opinion testimony about a subject that is outside the judge’s or jury’s knowledge or experience, provided by a witness with established expertise on that subject.

**Exposure to Violence** – situation in which children live in an environment of domestic violence; applies to children who witness the violence as well as to those that do not (i.e., hearing, observing, or intervening in the violence or its aftermath).

**Family Assessment** – the stage of the child protection process when the CPS caseworker, community treatment provider, and the family reach a mutual understanding regarding the behaviors and conditions that must change to reduce or eliminate the risk of maltreatment, the most critical treatment needs that must be addressed, and the strengths on which to build.

**Family Drug Court** – a drug court that deals with cases involving parental rights in which an adult is the litigant (i.e., any party to a lawsuit, which means plaintiff, defendant, petitioner, respondent, crosscomplainant and cross-defendant, but not a witness or attorney); the case comes before the court through either a criminal or civil proceeding; and the case arises out of the substance abuse of a parent.

**Family Group Conferencing** – a family meeting model used by CPS agencies to optimize family strengths in the planning process. This model brings the family, extended family, and others important in the family's life (e.g., friends, clergy, neighbors) together to make decisions regarding how best to ensure safety of the family members.

**Family Unity Model** – a family meeting model use by CPS agencies to optimize family strengths in the planning process. This model is similar to the Family Group Conferencing model.

**Full Disclosure** – CPS information to the family regarding the steps in the intervention process, the requirements of CPS, the expectations of the family, the consequences if the family does not fulfill the expectations, and the rights of the parents to ensure that the family completely understands the process.

**Guardian ad Litem** – a lawyer or lay person who represents a child in juvenile or family court. Usually this person considers the “best interest” of the child and may perform a variety of roles, including those of independent investigator, advocate, advisor, and guardian for the child. A lay person who serves in this role is sometimes known as a court-appointed special advocate or CASA.

**Hearsay** – an out-of-court statement made by someone other than the witness that is offered for the truth of that statement.

**Home Visitation Programs** – prevention programs that offer a variety of family-focused services to pregnant mothers and families with new babies. Activities frequently encompass structured visits to the family's home and may address positive parenting practices, nonviolent discipline techniques, child development, maternal and child health, available services, and advocacy.

**Immunity** – established in all child abuse laws to protect reporters from civil law suits and criminal prosecution resulting from filing a report of child abuse and neglect.

**Initial Assessment or Investigation** – the stage of the CPS case process where the CPS caseworker determines the validity of the child maltreatment report, assesses the risk of maltreatment, determines if the child is safe, develops a safety plan if needed to assure the child's protection, and determines services needed.

**Injunction** – an equitable remedy in the form of a court order compelling a party to do or refrain from doing a specified act.

**Intake** – the stage of the CPS case process where the CPS caseworker screens and accepts reports of child maltreatment.

**Interview Protocol** – a structured format to ensure that all family members are seen in a planned strategy, that community providers collaborate, and that information gathering is thorough.

**Jurisdiction** – the power or right to exercise authority.

**Juvenile and Family Courts** – established in most States to resolve conflict and to otherwise intervene in the lives of families in a manner that promotes the best interest of children. These courts specialize in areas such as child maltreatment, domestic violence, juvenile delinquency, divorce, child custody, and child support.

**Juvenile Drug Court** – a drug court that focuses on juvenile delinquency matters and status offenses that involve juveniles who are substance abusers.

**Keeping Children and Families Safe Act** – The Keeping Children and Families Safe Act of 2003 (P.L. 108-36) included the reauthorization of the Child Abuse Prevention and Treatment Act (CAPTA) in its Title I, Sec. 111. CAPTA provides minimum standards for defining child physical abuse and neglect and sexual abuse that States must incorporate into their statutory definitions in order to receive Federal funds. CAPTA defines child abuse and neglect as “at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.”

**Kinship Care** – formal child placement by the juvenile court and child welfare agency in the home of a child’s relative.

**Level of lethality (or dangerousness)** – assessing both the number and types of indicators (e.g., use of weapons, stalking, threats of homicide, sexual abuse, mental illness) that help determine the risk of a batterer severely harming or killing the adult victim or the children.

**Liaison** – the designation of a person within an organization who has responsibility for facilitating communication, collaboration, and coordination between agencies involved in the child protection system.

**Litigant** – a party to a lawsuit.

**Mandated Reporter** – individuals required by State statutes to report suspected child abuse and neglect to the proper authorities (usually CPS or law enforcement agencies). Mandated reporters typically include professionals, such as educators and other school personnel, health care and mental health professionals, social workers, childcare providers, and law enforcement officers. Some States identify all citizens as mandated reporters.

**Memorandum of Understanding (MOU)** – a written agreement that serves to clarify relationships and responsibilities between two or more organizations that share services, clients, or resources.

**Multidisciplinary Team** – established between agencies and professionals within the child protection system to discuss cases of child abuse and neglect and to aid in decisions at various stages of the CPS case process. These teams also may be designated by different names, including child protection teams, interdisciplinary teams, or case consultation teams.

**Neglect** – the failure to provide for a child’s basic needs. Neglect can be physical, educational, or emotional. Physical neglect can include not providing adequate food or clothing, appropriate medical care, supervision, or proper weather protection (heat or coats). Educational neglect includes failure to provide appropriate schooling, special educational needs, or allowing excessive trancies. Psychological neglect includes the lack of any emotional support and love, chronic inattention to the child, exposure to spouse abuse, or drug and alcohol abuse.

**Out-of-Home Care** – child care, foster care, or residential care provided by persons, organizations, and institutions to children who are placed outside their families, usually under the jurisdiction of juvenile or family court.

**Overrule** – to set aside the authority of a former decision; the act of court in rejecting a motion or objection made by a party to a lawsuit.

***Parens Patriae Doctrine*** – originating in feudal England, a doctrine that vests in the State a right of guardianship of minors. This concept has gradually evolved into the principle that the community, in addition to the parent, has a strong interest in the care and nurturing of children. Schools, juvenile courts, and social service agencies all derive their authority from the State’s power to ensure the protection and rights of children as a unique class.

**Parent or caretaker** – person responsible for the care of the child.

**Penalty for Failure to Report** – all State child abuse reporting laws delineate penalties for mandated reporters who fail to report suspected instances of child abuse to the designated State agency. The penalty usually results in a misdemeanor charge and a fine or time in jail.

**Petitions** – a document containing allegations of child abuse or neglect that is typically filed by the CPS attorney in juvenile court.

**Physical Abuse** – the inflicting of a nonaccidental physical injury upon a child. This may include, burning, hitting, punching, shaking, kicking, beating, or otherwise harming a child. It may, however, have been the result of over-discipline or physical punishment that is inappropriate to the child’s age.

**Preponderance of the Evidence** – the burden of proof for civil cases in most States, including child maltreatment proceedings. The attorney for CPS or other petitioner must show by a preponderance of evidence that the abuse or neglect happened. This standard means that the evidence is more credible than the evidence presented by the defendant party.

**Primary Prevention** – activities geared to a sample of the general population to prevent child abuse and neglect from occurring. Also referred to as “universal prevention.”

**Protective Factors** – strengths and resources that appear to mediate or serve as a “buffer” against risk factors that contribute to vulnerability to maltreatment or against the negative effects of maltreatment experiences.

**Protocol** – an interagency agreement that delineates joint roles and responsibilities by establishing criteria and procedures for working together on cases of child abuse and neglect.

**Psychological Maltreatment** – a pattern of caregiver behavior or extreme incidents that convey to children that they are worthless, flawed, unloved, unwanted, endangered, or only of value to meeting another’s needs. This can include parents or caretakers using extreme or bizarre forms of punishment or threatening or terrorizing a child. The term “psychological maltreatment” is also known as emotional abuse or neglect, verbal abuse, or mental abuse.

**Putative Father** – the alleged or supposed male parent; the person alleged to have fathered a child whose parentage is at issue.

**Reporting Laws** – all States have child abuse and neglect reporting laws that mandate who must report “suspected” child abuse and neglect cases, designate which agencies are charged with investigating alleged cases of abuse and neglect, and delineate the responsibilities of State and local agencies in responding to these children and families.

**Respondent** – an answering party in a proceeding in juvenile or family court.

**Response Time** – a determination made by CPS and law enforcement regarding the immediacy of the response needed to a report of child abuse or neglect.

**Restraining Order** – a civil legal document in which the adult victim is granted protection by the courts by ordering the batterer to commit no acts of violence against the adult victim or child. Usually orders the perpetrator to keep physically away from the victims. Also known as a protection order.

**Review Hearings** – held by the juvenile and family court to review dispositions (usually every 6 months) and to determine the need to maintain placement in out-of-home care or court jurisdiction of a child.

**Risk** – the likelihood that a child will be maltreated in the future.

**Risk Assessment** – to assess and measure the likelihood that a child will be maltreated in the future, frequently through the use of checklists, matrices, scales, and other methods of measurement.

**Risk Factors** – behaviors and conditions present in the child, parent, or family that will likely contribute to child maltreatment occurring in the future.

**Safety** – absence of an imminent or immediate threat of moderate-to-serious harm to the child.

**Safety Assessment** – a part of the CPS case process in which available information is analyzed to identify whether a child is in immediate danger of moderate or serious harm.

**Safety Plan** – a casework document developed when it is determined that the child is in imminent or potential risk of serious harm. In the safety plan, the caseworker targets the factors that are causing or contributing to the risk of imminent serious harm to the child, and identifies, along with the family, the interventions that will control the safety factors and ensure the child's protection.

**Secondary Prevention** – activities targeted to prevent breakdowns and dysfunctions among families who have been identified as at risk for abuse and neglect.

**Service Agreement** – the casework document developed between the CPS caseworker and the family that outlines the tasks necessary to achieve goals and outcomes necessary for risk reduction.

**Service or Constructive Service** – the act of delivering to, or informing someone of, a writ, summons, or other notice as prescribed by law.

**Service Provision** – the stage of the CPS casework process when CPS and other service providers provide specific services geared toward the reduction of risk of maltreatment.

**Sexual Abuse** – inappropriate adolescent or adult sexual behavior with a child. It includes fondling a child's genitals, making the child fondle the adult's genitals, intercourse, incest, rape, sodomy, exhibitionism, sexual exploitation, or exposure to pornography. To be considered child abuse, these acts have to be committed by a person responsible for the care of a child (for example a baby-sitter, a parent, or a daycare provider) or related to the child. If a stranger commits these acts, it would be considered sexual assault and handled solely by the police and criminal courts.

**Shelter** – a short-term, undisclosed haven for adult victims of intimate partner violence and their children where they are provided with safety, confidentiality, advocacy, and access to resources related to their victimization.

**Status Offender** – a juvenile under the jurisdiction of the court because of acts that would not be criminal if committed by an adult, but that indicate that the child is beyond parental control.

**Status Offenses** – transgressions of children that would not be crimes if they were legal age; primarily involve running away and truancy. The age for bringing such charges varies from State to State.

**Substantiated** – an investigation disposition concluding that the allegation of maltreatment or risk of maltreatment was supported or founded by State law or State policy. A CPS determination means that credible evidence exists that child abuse or neglect has occurred.

**Suspended Sentence** – a sentence that the defendant will not have to serve if he or she complies with the conditions of probation.

**Sustain** – to allow or uphold as valid.

**Termination of Parental Rights Hearing** – a legal proceeding to free a child from a parent's legal custody so that others can adopt the child. The legal basis for termination of parental rights differs from State to State, but most States consider the failure of the parent to support or

communicate with the child for a specified period, parental failure to improve home conditions, extreme or repeated neglect or abuse, parental incapacity to care for the child, and/or extreme deterioration of the parent-child relationship. In making this finding, the court is determining that the parents will not be able to provide adequate care for the child in the future by using a standard of clear and convincing evidence. This burden of proof is higher than preponderance of the evidence, which is used in civil abuse or neglect cases where termination is not sought.

**Tertiary Prevention** – treatment efforts geared to address situations where child maltreatment has already occurred, with the goals of preventing child maltreatment from occurring in the future and of avoiding the harmful effects of child maltreatment.

**Transactional Immunity** – a broader form of use immunity that bars prosecution of a witness for any event or transaction described in the witness’s compelled testimony, regardless of the source of the evidence against that person.

**Treatment** – the stage of the child protection case process when specific services are provided by CPS and other providers to reduce the risk of maltreatment, support families in meeting case goals, and address the effects of maltreatment.

**Universal Prevention** – activities and services directed at the general public with the goal of stopping the occurrence of maltreatment before it starts. Also referred to as “primary prevention.”

**Unsubstantiated (not substantiated)** – an investigation disposition that determines that there is not sufficient evidence under State law or policy to conclude that the child has been maltreated or is at risk of maltreatment. A CPS determination means that credible evidence does not exist that child abuse or neglect has occurred.

**Use Immunity** – bars the use of a witness’s compelled testimony and statements from being used directly or indirectly against that person in a subsequent trial.

## Appendix D

### Child Maltreatment Law: Welfare and Institutions Code, Section 300

**Section 300: ANY CHILD WHO COMES WITHIN ANY OF THE FOLLOWING DESCRIPTIONS IS WITHIN THE JURISDICTION OF THE JUVENILE COURT WHICH MAY ADJUDGE THAT PERSON TO BE A DEPENDENT CHILD OF THE COURT:**

#### **Serious Physical Harm - 300 (a)**

The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks where there is no evidence of serious physical injury.

#### **Failure To Protect - 300 (b)**

The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No child shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.



**Serious Emotional Damage - 300 (c)**

The child is suffering serious emotional damage or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care No child shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

**Sexual Abuse - 300 (d)**

The child has been sexually abused or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

**Penal Code 11165.1.** “Sexual abuse”; “Sexual assault”; “Sexual exploitation” As used in this article, “sexual abuse” means sexual assault or sexual exploitation as defined by the following: (a) “Sexual assault” means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (sexual penetration), or 647.6 (child molestation). (b) Conduct described as “sexual assault” includes, but is not limited to, all of the following: (1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen. (2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person. (3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose. (4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose. (5) The intentional masturbation of the perpetrator's genitals in the presence of a child. (c) “Sexual exploitation” refers to any of the following: (1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts). (2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct For the purpose of this section, “person responsible for a child's welfare” means a parent, guardian,

foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution. (3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

### **Severe Physical Abuse - 300 (e)**

The child is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of this subdivision, “severe physical abuse” means any of the following; any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

### **Caused Another Child’s Death Through Abuse Or Neglect - 300 (f)**

The child’s parent or guardian caused the death of another child through abuse or neglect.

### **No Provision For Support - 300 (g)**

The child has been left without any provision for support physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision (e) of that section; the child’s parent has been incarcerated or institutionalized and cannot arrange for the care of the child or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

**Health and Safety S 1255.7.** (Repealed January 1, 2006) Surrender of physical custody of newborn to safe-surrender site; Posting of statewide logo; Medical information questionnaire; Notice to Child Protective Services; Report to Missing Children Clearinghouse and National Crime Information Center; Return of child; Liability (a)(1) For purposes of this section, “safe-surrender site” means either of the following: (A) A location designated by the board of supervisors of a county to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code (B) A location within a public or private hospital that is designated by that hospital to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to

Section 271.5 of the Penal Code (2) For purposes of this section, ‘personnel’ means any person who is an officer or employee of a safe-surrender site or who has stair privileges at the site. (3) A hospital and any safe-surrender site designated by the county board of supervisors shall post a sign utilizing a statewide logo that has been adopted by the State Department of Social Services that notifies the public of the location where a minor child 72 hours old or younger may be safely surrendered pursuant to this section. (b) Any personnel on duty at a safe-surrender site shall accept physical custody of a minor child 72 hours old or younger pursuant to this section if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the child to personnel who are on duty at the safe-surrender site.

**Freed For Adoption - 300 (h)**

The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

**Cruelty - 300 (i)**

The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

**Abuse of Sibling - 300 (j)**

The child’s sibling has been abused or neglected as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

## Appendix E

### Mandated Reporting in Domestic Violence Cases

Information copied from *When to Contact Child Protective Services in Domestic Violence Cases: A Guide for Mandated Reporters*. Written by L. Michael Clark, Deputy County Council, Santa Clara County. Revised May 2003.

1. Under California law a mandated reporter must report, among other things, willful child endangerment or the willful infliction of unjustifiable physical pain or mental suffering on a child. See Penal Code § 11165.3. In the context of domestic violence, a mandated reporter must consider whether there is a risk of physical or emotional harm to the child. The fact that a child's parent or guardian has been the victim of domestic violence is not in and of itself a sufficient basis for reporting suspected child abuse or neglect. Further, a child's exposure to a domestic violence incident in and of itself is not a sufficient basis for reporting suspected abuse or neglect. Other factors must exist which lead the mandated reporter to reasonably suspect that the child's physical or emotional health is endangered as the result of domestic violence. Mandated reporters in Santa Clara County may consult with a screener at the CPS Hotline at 408-299-2071 to determine whether a report is required.
2. A mandated reporter must report suspected child abuse or neglect to Child Protective Services (CPS) in the following domestic violence cases:

- a. A domestic violence incident which caused physical injury to the child or created a serious risk of physical injury to the child.

Factors to consider in determining whether a domestic violence incident created a serious risk of physical injury to the child include, but are not limited to the following: Were objects thrown or broken in the presence of the child? Did the perpetrator threaten to harm or conceal the child? Did the perpetrator strike a victim who was holding a child or did the perpetrator hold a striking in the domestic violence? Did the perpetrator threaten to kill or commit suicide? Did the perpetrator threaten the victim with a gun, knife or other weapon? Did the perpetrator kick or bite or hit the perpetrator or attempt to hit the victim with an object? Did the perpetrator choke or strangle the victim? Did the perpetrator stalk the victim or child.

- b. A domestic violence incident which caused serious emotional damage to the child or created a substantial risk of serious emotional damage to the child.

Serious emotional damage (SED) in the context of child protection law means the child exhibits severe anxiety, depression, withdrawal, untoward aggressive behavior toward self or others, as the result of the conduct of a parent or whose parent is incapable of providing appropriate care. (See Welfare and Institutions Code § 300, subd. (c).) A report should be made if the child's SED was caused by domestic violence perpetrated by a parent. Regardless of who the perpetrator is, a report also should be made if the parent who is a victim of domestic violence is: (a) incapable of

- providing for the child's treatment or care for SED caused by domestic violence; or  
(b) unable to protect the child from repeated exposure to domestic violence even with the assistance of community and child welfare services.
3. A report to CPS does not mean that the child will be removed from the domestic violence victim's home. The CPS social worker must consider the complexities of each case and determine the impact of the domestic violence incident (and other indications of maltreatment) on the child. The law requires that CPS make a reasonable effort to prevent the need for removal of any child and keep the child in the care of a non-offending parent whenever possible. The child's safety will be assessed in terms of "the nature and severity of past violence, the risk of violence in the future, the child's degree of exposure and resilience, the presence of protective factors in the immediate and extended family, and available support from the community." (See *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice* ("Green Book"), National Council of Juvenile and Family Court Judges, 1999, p. 64.)

## Appendix F

### Federal Domestic Violence Legislation

Information copied from *Child Protection in Families Experiencing Domestic Violence*. Written by H. Lien Bragg for the U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Office on Child Abuse and Neglect in 2003.

**Family Violence Prevention and Services Act of 1984 (P.L. 98-457)** - The Family Violence Prevention and Services Act of 1984 (FVPSA) was Congress' first attempt to address domestic violence in the country. This legislation was intended to assist States with their efforts to increase public awareness about domestic violence and to provide Federal funding for domestic violence shelters and victim services. States and nonprofit organizations also were awarded grants to develop domestic violence and child maltreatment programs and to provide training and technical assistance for law enforcement officers and community service providers.

**Violence Against Women Act (VAWA), Title IV of the Violent Crime Control and Law Enforcement Act (P.L. 103-322)** - In 1994, Congress passed the Violence Against Women Act, which marked a turning point in Federal recognition of the extent and seriousness of domestic violence. This legislation demonstrated the Federal government's commitment to address domestic violence. There are four titles within the Act—the Safe Street Act, Safe Homes for Women, Civil Rights for Women and Equal Justice for Women in the Courts, and Protections for Battered Immigrant Women and Children—and each act addresses domestic violence, sexual assault, stalking, and protection against gender-motivated violence. The provisions of VAWA call for improving law enforcement and criminal justice responses, creating new criminal offenses and tougher penalties, mandating victim restitution, and requiring system reform geared towards protecting victims of domestic violence during prosecution of the perpetrator. VAWA also authorized support for increased prevention and education programs, victim services, domestic violence training of community professionals, and protections from deportation for battered immigrant women.

**Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) – Wellstone/Murray Amendment (P.L. 104-193)** - The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) replaced the Aid to Families with Dependent Children (AFDC) program with the Temporary Assistance to Needy Families program. The Wellstone/Murray Amendment of PRWORA includes a provision entitled the Family Violence Option, which addresses the safety and economic barriers faced by victims of domestic violence. Through this amendment, each State has the option to enact procedures that temporarily exempt identified victims of domestic violence from meeting certain time limit and other work requirements.