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Jeremy Bressman

Kevin Golembiewski

Abram Orlansky

Crystal Redd

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Authors:

Jeremy Bressman

Kevin Golembiewski

Abram Orlansky

Crystal Redd

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I. Introduction

While the number of children subject to abuse or neglect has dropped over the past decade, it is undoubtedly the case that child abuse and neglect remains one of the most serious concerns for children in the United States. Nationwide, nearly 702,000 children (or 9.3 out of 1,000) were subject to some form of abuse in the Fiscal Year 2009,¹ a drop from even the year before (10.3 victims per 1,000 children),² and a significant drop from earlier recorded findings in 1995 (15 victims per 1,000).³ Still, the numbers remain alarmingly high, particularly given the dire consequences. A number of studies have noted that the impact of abuse and neglect can last an entire lifetime; it can include, among other things, physical health issues (such as damage to a child's brain), psychological complications (such as cognitive delays, depression, and anxiety), behavioral consequences (such as increased likelihood of involvement in high-risk behaviors and greater likelihood of juvenile crime and delinquency), and societal consequences (such as increased costs to maintain a robust child welfare system).⁴ In short, the victims of child abuse include not only the abused themselves, but society as a whole.

This broad array of potential consequences is reflective of the individual differences between the perpetrators and victims of child abuse and neglect. Whether a victim will experience long-term effects, what exactly those effects will be, and the severity of the effects depend on a variety of factors.⁵ The impact of abuse varies based on the age and developmental level of a child at the time of abuse, the type of abuse involved, the intensity level of the abuse, and the relationship between the victim and abuser.⁶ The key mitigating factor that contributes to reduced long-term impact is a child's "resilience," defined as his or her ability to "cope, and even thrive, following a negative experience."⁷ Resilience, in turn, is developed through a mix of innate characteristics and outside influences like community stability and the support of other adults.⁸

For those children who are unable to avoid major consequences, child abuse and neglect has both physical and psychological impacts. Both types of effects can be split into short-term and long-term categories. In the short term, the physical impact spans the spectrum from minor scrapes and bruises to extremely severe injuries or even death.⁹ The long-term physical effects of abuse are the subject of emerging research, and they include impaired brain development, allergies, asthma, arthritis, high blood

¹ U.S. Department of Health and Human Services, *Child Maltreatment 2009*, at ix, available at <http://www.acf.hhs.gov/programs/cb/pubs/cm09/cm09.pdf#page=9>.

² U.S. Department of Health and Human Services, *Child Maltreatment 2008*, at 25, available at <http://www.acf.hhs.gov/programs/cb/pubs/cm08/cm08.pdf>.

³ U.S. Department of Health and Human Services, *Highlights of Findings, Child Maltreatment 2008*, available at <http://www.acf.hhs.gov/programs/cb/pubs/ncands/highligh.htm>.

⁴ See, e.g., Child Welfare Information Gateway, *Long-Term Consequences of Child Abuse and Neglect*, April 2008, available at http://www.childwelfare.gov/pubs/factsheets/long_term_consequences.pdf (citing numerous studies to substantiate these conclusions).

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

pressure, and ulcers.¹⁰ On the psychological side, short-term effects of abuse include isolation, fear, and an inability to trust.¹¹ These in turn can lead to low self-esteem, depression, and relationship difficulties into adulthood.¹² Abuse can even result in reduced cognitive abilities as manifested in language development and academic achievement, as well as personality disorders and other antisocial behavior.¹³

The individual impacts on the victims of child abuse—physical, emotional, and behavioral—are severe enough to make this a wide-ranging problem. However, society pays a collective price for the abuse and neglect of some of its most vulnerable members as well. Direct costs alone, including the costs of investigating child abuse and neglect via child welfare services and expenditures by various government entities in responding to instances of abuse and neglect, is estimated at \$24 billion per year.¹⁴ The indirect costs—those resulting from juvenile and adult criminal activity, mental illness, substance abuse, and domestic violence connected to child abuse and neglect—are as high at \$69 billion per year.¹⁵ As such, legislators and other policy makers have a tremendous responsibility to address the problem and its resultant human and societal costs.

The most significant piece of Federal legislation to date in this area is the Child Abuse Prevention and Treatment Act (CAPTA).¹⁶ CAPTA was enacted in order to aid the states, in their individual capacities, in developing child protection systems tailored to their communities.¹⁷ One goal of the legislation was to ensure that child protection systems would be “comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, safety, self-respect, and dignity of the child.”¹⁸ Under CAPTA, child abuse and neglect is defined as “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;”¹⁹ states, however, are responsible for adopting their own definitions of abuse and neglect within this minimal standard.²⁰ In addition to providing funding to the states to support the prevention, investigation, and prosecution of abuse and neglect, the Children’s Bureau of the U.S. Department of Health and Human Services also acts as a clearinghouse, culling information (through the National Child Abuse and Neglect

¹⁰ *Id.* at 3-4

¹¹ *Id.* at 4.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 5 (citing Prevent Child Abuse America, *Total Estimated Cost of Child Abuse and Neglect in the United States* (2001)).

¹⁵ *Id.*

¹⁶ P.L. 93-247 (1974), as codified at 42 U.S.C. §§ 670, 5101-15 (2003).

¹⁷ See 42 U.S.C.A. § 5101(12) (2011) (“[T]he Federal government should assist States and communities with the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child and family protection strategy.”).

¹⁸ Child Abuse Prevention and Treatment Act (CAPTA), §2(8), available at http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/capta/.

¹⁹ 42 U.S.C.A. § 5106(g) (2011).

²⁰ See Child Welfare Information Gateway, *What is Child Abuse and Neglect?*, April 2008, at 2, available at <http://www.childwelfare.gov/pubs/factsheets/whatiscan.pdf>.

Data System (NCANDS)) from the various states about abuse within their particular localities. The CAPTA legislation, most recently amended by the Keeping Children and Families Safe Act of 2003,²¹ has been crucial in preventing abuse and neglect throughout the country and has been continuously reauthorized by Congress since its adoption in 1974. Additionally, Congress implemented the Adoption and Safe Families Act of 1997, which states that all children have the right to live in a permanent home that is free of abuse and neglect.²²

State civil definitions of neglect refer to the grounds upon which state child protective agencies can intervene in order to prevent the abuse or neglect of a child; criminal definitions (a separate body of law) provide the grounds upon which the state can prosecute offenders. States, through their laws, have generally recognized four major types of child maltreatment: physical abuse, neglect, sexual abuse, and emotional abuse.²³ Physical abuse is often defined as “any non-accidental physical injury to the child,” including striking, hitting, and biting of children, or any other action that causes injury.²⁴ Neglect involves the “the failure of a parent or other person with responsibility for the child to provide needed food, clothing, shelter, medical care, or supervision such that the child’s health, safety, and well-being are threatened with harm;”²⁵ many states (including Mississippi) include the failure to educate within the definition of neglect.²⁶ Sexual abuse, an element of the laws of every state, includes various acts of sexual abuse, as well as the sexual exploitation of children (including allowing children to engage in prostitution and pornography).²⁷ Finally, emotional abuse is typically defined as “injury to the psychological capacity or emotional stability of the child as evidenced by an observable or substantial change in behavior, emotional response, or cognition.”²⁸ A number of states (not including Mississippi) have included parental substance abuse as an element of their definitions, while a smaller number (also not including Mississippi) have termed “abandonment” as grounds for a finding of abuse or neglect.²⁹

II. The Current State of Child Abuse and Neglect in Mississippi

Mississippi Statistics

The Mississippi Department of Family and Children Services investigated 21,582 reports of child abuse and neglect during Fiscal Year 2010.³⁰ 5,915 of the reports, or 27%, were evidenced.³¹ The evidenced reports were divided as follows:

²¹ P.L. 108-36 (2003).

²² *Id.*

²³ Child Welfare Information Gateway, *What is Child Abuse and Neglect?*, *supra* note 20, at 2.

²⁴ Child Welfare Information Gateway, *Definition of Child Abuse and Neglect: Summary of State Laws*, July 2009, at 2, available at http://www.childwelfare.gov/systemwide/laws_policies/statutes/define.pdf.

²⁵ *Id.* at 3.

²⁶ *See id.*

²⁷ *Id.*

²⁸ *Id.* at 4.

²⁹ *Id.* at 4-5.

³⁰ Miss. Dep’t. of Human Services Annual Report SFY 2010 at 28 (2010), <http://www.mdhs.state.ms.us/pdfs/2010AnnualReport.pdf>.

³¹ *Id.*

- 2,799 reports of physical neglect
- 1,501 reports of physical abuse
- 997 reports of sexual abuse
- 366 reports of emotional abuse
- 240 reports of medical neglect
- 12 reports of exploitation³²

In addition to statistics on the reports of and investigations into child abuse and neglect, the state Child Death Review Panel (CDRP) provides statistics on infant and child mortality and, through its annual report, makes connections between child abuse and neglect and the number of deaths of young children in Mississippi. According to the 2010 Annual Report, there were 706 child deaths in 2009, 372 of which were reviewed by the CDRP.³³ Thirteen deaths were due to “inflicted injury” and one due to “lack of adequate care;” most of the victims were under the age of three.³⁴ The Department of Human Services (DHS) was involved in investigating five of the fourteen cases. Eleven of the deaths were homicides, two were accidental, and one was pending investigation.³⁵ The overall number of deaths due to abuse and neglect in the 2010 report (reflecting 2009 statistics) reflected a slight increase over the 2009 Annual Report: 709 children died in 2008 and 369 of the deaths were reviewed.³⁶ Eight deaths were due to “inflicted injury” and two were due to “lack of adequate care;” as in 2009, the majority of the victims were under age three.³⁷ DHS was involved in half of the cases.³⁸ Eight of the deaths were ruled homicides and one was accidental.

In terms of pure numbers, the U.S. Department of Health and Human Services’ data indicate that Mississippi’s child abuse and neglect situation is in the middle of the road. According to the Department’s Child Welfare Information Gateway, 9.3% of children in the United States were victims of abuse and/or neglect in 2009.³⁹ Mississippi’s rate was a very similar 9.6%.⁴⁰ However, three of the four states that border Mississippi had better rates: 7.2% of children in Alabama were victimized, 8.1% in Louisiana, and Tennessee reported an amazingly low number at 5.9%.⁴¹ Arkansas was among the worst

³² *Id.* According to the U.S. Department of Justice’s Child Exploitation and Obscenity Section, “exploitation” specifically refers to sexual exploitation. “Exploitation” is a blanket term for child pornography (including possession, receipt, distribution, or production thereof), sexual abuse, and trafficking of children for sexual activity. Child Exploitation and Obscenity Section, *Citizen’s Guide to United States Federal Exploitation Laws*, U.S. DEP’T OF JUSTICE, <http://www.justice.gov/criminal/ceos/citizensguide.html> (2011). The Mississippi Annual Report separates sexual abuse from the exploitation category.

³³ Miss. Child Death Review Panel, 2010 Annual Report at 9 (2010), http://www.childdeathreview.org/Reports/MS_2010.pdf.

³⁴ *Id.* at 18, 21.

³⁵ *Id.*

³⁶ Miss. Child Death Review Panel, 2009 Annual Report at 9 (2009), http://www.childdeathreview.org/Reports/MS_2009.pdf.

³⁷ *Id.* at 15, 18.

³⁸ *Id.* at 15.

³⁹ Admin. For Children and Families, Child Welfare Information Gateway, *Child Maltreatment 2009* at 33, U.S. DEP’T OF HEALTH & HUMAN SVCS. (2010), <http://www.acf.hhs.gov/programs/cb/pubs/cm09/cm09.pdf>.

⁴⁰ *Id.*

⁴¹ *Id.*

states in the nation, with 14.0% of its children falling victim to abuse or neglect.⁴² No other Deep South state reported a percentage in double digits, and some of the worst offenders were Northeastern states Massachusetts (24.2%) and New York (17.5%).⁴³ However, it should be noted that some of this discrepancy can likely be attributed to the fact that each state promulgates its own definitions of child abuse and neglect within the framework laid out by the Federal government.⁴⁴ It is likely that New York and Massachusetts have much broader definitions than states in Mississippi's region, leading to higher reported offenses.

State Legislation

It is clear that child abuse and neglect is a significant problem around the country, including in Mississippi.⁴⁵ Mississippi's legislature has addressed the issue from several angles. First, it has defined an abused child as "a child whose parent, guardian or custodian . . . has caused or allowed to be caused upon said child sexual abuse, sexual exploitation, emotional abuse, mental injury, non-accidental physical injury or other maltreatment."⁴⁶ The same statute notes physical discipline, including spanking, is not deemed abuse if performed "in a reasonable manner."⁴⁷ Under Mississippi law, parents, guardians, and custodians may use corporal punishment but they are not allowed to cause bruises, marks, or other injuries.⁴⁸ Other important legislation includes statutes creating the crimes of "contributing to the neglect and delinquency of a child" and "felonious abuse and/or battery of a child."⁴⁹ Convictions for felonious child abuse are punishable by up to twenty years in jail.⁵⁰ If a child is intentionally hurt but not seriously injured then the crime is a misdemeanor punishable by up to one year in jail.⁵¹

The Mississippi legislature enacted the Mississippi Children's Justice Act (CJA) in 1997.⁵² Federal guidelines mandated every state to create a Children's Justice Act Task Force to "develop, establish, and operate programs designed to improve the investigation, prosecution, and judicial handling of child abuse and neglect cases."⁵³ Task Forces around the country, including Mississippi's, have advocated laws geared toward improving systems responses, increasing the penalties for sexual offenses against children, requiring mandatory sentencing, permitting victims to make statements prior to sentencing, and allowing the admission of indirect testimony of children into evidence.⁵⁴ Aside from the Task Force, the major project Mississippi has undertaken with its CJA money is to streamline the handling of child

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.* at vii.

⁴⁵ Tricia Hopper, *Campaign is Aimed at Child Abuse Prevention*, MISS. STATE UNIV. OFFICE OF AGRIC. COMM'N., April 22, 2004.

⁴⁶ MISS. CODE ANN. § 43-21-105 (2010).

⁴⁷ *Id.*

⁴⁸ *Child Protective Services*, MISS. DEP'T. OF HUMAN SERVICES, http://www.mdhs.state.ms.us/fcs_prot.html.

⁴⁹ MISS. CODE ANN. § 97-5-39 (2010).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Children's Justice Act*, MISS. DEP'T OF HUMAN SERVICES, http://www.mdhs.state.ms.us/fcs_justice.htm.

⁵³ *Id.*

⁵⁴ *Id.*

abuse cases by establishing the statewide Multidisciplinary Child Abuse Review Team Network.⁵⁵ DHS notes that this new network provides opportunities for more collaboration across disciplines and for increased specialized training for professionals working on child abuse cases.⁵⁶

Reporting of Child Abuse and Neglect

An important aspect of addressing child abuse and neglect is providing an appropriate reporting mechanism that allows concerned citizens and mandatory reporters to anonymously report incidences of child abuse and neglect. Along with most other states, Mississippi's definition of mandatory reporters includes social workers, school employees (including teachers), health care and mental health professionals, child care providers, medical examiners, and police officers.⁵⁷ Mississippi is also one of 26 states now requiring members of the clergy to report abuse and neglect.⁵⁸

The state's current reporting system includes a phone hotline⁵⁹ that is available twenty-four hours a day and a website, MSabusehotline.com, that allows reports online. Until November 2009, the state of Mississippi operated a phone hotline that allowed calls to all 84 county offices (Bolivar and Monroe Counties have two branches each)⁶⁰ as well as through a central hotline.⁶¹ Since November 2009, the state has operated Mississippi Centralized Intake. All reports of abuse and neglect are routed through this central program and then sent to the county offices for investigation and handling.⁶²

Mississippi also maintains the Child Abuse/Neglect Central Registry, a database of perpetrators of abuse and neglect identified through "evidenced" investigations.⁶³ The listing of a name on the registry requires criminal prosecution of that individual.⁶⁴ Additionally, the Registry allows childcare providers and placement organizations to check the names of employment applicants and potential foster/adoptive parents. There are over 51,746 names in the registry.⁶⁵

Prevention Services

The fundamental elements of a child abuse and neglect prevention scheme include raising awareness among the general public about the problem, educating the public about the signs of abuse and neglect

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Child Welfare Information Gateway, *Mandatory Reporters of Child Abuse and Neglect: Summary of State Laws*, U.S. DEP'T OF HEALTH & HUMAN SERVICES, http://www.childwelfare.gov/systemwide/laws_policies/statutes/manda.cfm (April 2010).

⁵⁸ *Id.* Only two states, New Jersey and Wyoming, do not list specific professions as mandatory reporters; in those states, everyone is required to report.

⁵⁹ The telephone number is 1-800-222-8000.

⁶⁰ Miss. Dep't of Human Services, *County Offices Directory*, www.mdhs.state.ms.us/pdfs/eadirectory.pdf (May 11, 2011).

⁶¹ Miss. Dep't. of Human Services Annual Report SFY 2010, *supra* note 30 at 27.

⁶² *Id.*

⁶³ *Id.* at 26.

⁶⁴ *Id.*

⁶⁵ *Id.*

and providing support and resources to families that need them. Key indicators of abuse and neglect include bruising, broken bones, leaving children unattended, having children dressed inappropriately for the weather, inadequate hygiene, and consistent complaints of hunger from children.⁶⁶

The Mississippi Department of Human Services' Community-Based Child Abuse Prevention (CBCAP) program promotes public education and awareness to prevent child abuse.⁶⁷ The key goals of the program are comprehensive support for parents, development of parenting skills, improved access to resources, promotion of meaningful parent leadership, and providing referrals for early health and development services.⁶⁸ Efforts are targeted toward specific families including families with children with disabilities, racial and ethnic minorities, and members of underserved groups.⁶⁹ The CBCAP list of targeted, at-risk families does not include those with teen parents. However, Mississippi should consider adding such families because children born to mothers age 15 and younger are twice as likely to become "indicated cases" of child abuse and neglect in the first five years of life as those born to mothers age 20-21.⁷⁰ These efforts are aligned to the recommendations made by the Child Death Review Panel, including providing parenting classes or outreach programs specifically geared to young parents.⁷¹ The CDRP suggests giving some sort of financial, tax, or other incentive to encourage parents to participate in the parenting classes.⁷²

The Mississippi Children's Trust Fund (CTF) is part of a nationwide network of community-based programs that seek to prevent child abuse and neglect before it occurs.⁷³ The Mississippi Legislature created CTF in 1989, with its primary purpose to provide financial assistance in the provision of direct services to prevent child abuse and neglect.⁷⁴ The CTF is designed to carry significant political clout: its 13-member Advisory Council automatically includes the directors of the Mississippi Departments of Health, Mental Health, Education, and Human Services.⁷⁵ These four agency directors and their nine colleagues on the Council work to improve coordination among the various agencies addressing issues of child abuse and neglect and authorize disbursements of CTF funds.⁷⁶ They also submit recommendations to the governor and legislature on changes to policy and legislation.⁷⁷

One of the most common responses to child abuse and neglect across the country is the foster care system, in which children are placed with unrelated families temporarily until they can either be

⁶⁶ *Children and Family Services*, MISS. DEP'T OF HUMAN SERVICES, http://www.mdhs.state.ms.us/fcs_prot.html.

⁶⁷ *Community-Based Child Abuse Prevention*, MISS. DEP'T OF HUMAN SERVICES, http://www.mdhs.state.ms.us/fcs_abusep.htm.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Ctr. For Prevention & Early Intervention Policy, *Fact Sheet: The Children of Teen Parents*, FLA. STATE UNIV. (2005), www.cpeip.fsu.edu/resourceFiles/resourceFile_78.pdf. In addition, a 1998 report cited a study from Illinois finding that the highest instance of child abuse and neglect was from mothers under age 18. Ctr. For Law and Social Policy, *More Than One: Teen Mothers and Subsequent Childbearing* (Aug. 1998), www.clasp.org/admin/site/publications/files/0029.pdf

⁷¹ Miss. Child Death Review Panel, 2010 Annual Report *supra* note 33 at 18.

⁷² *Id.*

⁷³ *Children's Trust Fund*, Miss. Dep't of Human Services, http://www.mdhs.state.ms.us/fcs_childtrust.htm.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* The CTF is funded by a \$1 surcharge on each birth certificate issued in the state.

⁷⁷ *Id.*

returned to their own families or placed in a permanent adoptive home. The average child waiting to be adopted in Mississippi spends nearly three years in foster care before finding a permanent home, and more than three and a half years before an adoption is finalized.⁷⁸ In 2007, only 15% of children in foster care ended up being adopted at all while 47% returned to their original homes.⁷⁹ Particularly troubling is the plight of older children in foster care: in a problem that is certainly not confined to Mississippi, youth over the age of nine have a significantly lower chance of being adopted than younger children.⁸⁰ In 2007, 93 Mississippi children aged out of foster care without a permanent, legal family of any kind; these children are at very high risk for difficulties like homelessness, depression, and substance abuse.⁸¹ However, there is one positive indicator in Mississippi's foster care statistics: foster families often go above and beyond the call of duty, as 78% of the children adopted in 2007 were adopted by their foster parents.⁸²

Resources Available

There are many resources available to aid families both as a part of the Department of Human Services' Division of Family and Children Services and outside of the state agency. A sample of the non-profits and community organizations working on child abuse prevention include the Mississippi Committee for the Prevention of Child Abuse, the Mississippi Children's Advocacy Centers located throughout the state, the Mississippi Forum on Children and Families, Inc., Mississippi Families for Kids, and the Child Abuse Exchange Club—to name just a few.⁸³

Olivia Y. Settlement and the Future of the Child Welfare System in Mississippi

While certain services are available to abused children and their families in Mississippi, many such victims have found the state's own responses severely lacking. The myriad issues with Mississippi's handling of child abuse and neglect on an official level led in 2004 to a court battle over alleged inadequacies in the system. The *Olivia Y., et al. v. Barbour, et al.*⁸⁴ settlement is the result of this class action lawsuit filed in 2004 against the Governor of Mississippi, the Director of the Department of Human Services and the Director of the Division of Family and Children Services. The plaintiff class in the lawsuit was defined as "Mississippi's abused and neglected children;" it alleged that the Mississippi child welfare system's "lack of management," "lack of leadership," "deliberate indifference," and "underfunding" was so egregious that it deprived the plaintiffs of several constitutional and civil rights.⁸⁵ The lawsuit was protracted over several years and eventually settled out of court after the judge refused to grant the state's several motions for dismissal or summary judgment on the plaintiffs' substantive

⁷⁸ N. AM. COUNCIL ON ADOPTABLE CHILDREN, *Miss. Adoption Facts* (Dec. 2009), <http://www.nacac.org/policy/statefactsheets/MS.pdf>.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ The Mississippi Coalition Against Sexual Assault provides an extensive list of organizations, including service areas for many of them, at www.msCasa.org/media/MSCASA-PubRefBook120402-1.pdf.

⁸⁴ No. Civ.A.3:04 CV 251LN.

⁸⁵ Am. Compl. at 1-3, http://www.mdhs.state.ms.us/fcs_courtdocs.htm.

due process claims (though he did dismiss all their other claims).⁸⁶ The settlement agreement was signed in January 2008 and developed standards and outcomes to be met by January 2013.⁸⁷ The settlement agreement calls for an incremental remedial process that measures progress in terms of annual benchmarks and interim milestones; a court monitor was appointed to oversee implementation.⁸⁸ The benchmarks are a part of annual implementation plans. Key standards in the improvement plan included raising the qualifications of the director of the Division of Family and Children Services, raising the qualifications of caseworkers, placing a cap on caseworker case loads, implementing an intense training schedule for all personnel to keep them up-to-date on the services provided by state agencies, implementing standards for agencies that contract with the Division of Family and Children Services, creating a continuous quality improvement system, and creating an information management system.⁸⁹ Another crucial part of the reform plan is that the Department of Human Services must seek accreditation from the Council on Accreditation, the largest independent accrediting body for organizations that provide services to children, youth, seniors, and families.⁹⁰

At the end of the first implementation year in June 2009, the court monitor found that the “pace of progress did not meet the Settlement Agreement’s requirements.”⁹¹ However, the monitor noted that a new executive team led the Division of Family and Children Service and that the new team was committed to reform.⁹² The new executive team needed to expedite progress in order to meet the reform requirements by the end of the five-year period.⁹³ At the end of the second implementation year in June 2010, the court monitor found that the Division of Family and Children Services did not have “many of the basic tools in place to manage and promote the reform effort effectively and thereby provide a reasonable assurance the Settlement Agreement’s requirements will be satisfied.”⁹⁴

The parties agreed to a four-month corrective action in June 2010 that placed a series of requirements on the state, including a narrow subset of unmet requirements from the first and second implementation plans.⁹⁵ The court monitor’s report showed that the Division of Family and Children Services had met most but not all of the requirements of this “Bridge Plan.”⁹⁶ As a result, the plaintiffs filed a Motion for Contempt and for the Appointment of a Receiver in October 2010.⁹⁷ The state filed a Memorandum of Law in Opposition to the Plaintiff’s Motion in December 2010.⁹⁸ The court has not yet ruled on the Plaintiff’s Motion for Contempt and for the Appointment of a Receiver.

⁸⁶ 351 F.Supp.2d 543 (S.D. Miss. 2004).

⁸⁷ Ct. Monitor’s Report Year 1 Implementation Plan at 1, http://www.mdhs.state.ms.us/fcs_courtdocs.htm.

⁸⁸ *Id.*

⁸⁹ Miss. Settlement Agreement and Reform Plan, <http://www.mdhs.state.ms.us/OliviaYsettle.htm>.

⁹⁰ *Id.*

⁹¹ Ct. Monitor’s Report Year 1 Implementation Plan *supra* note 87 at 6.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Ct. Monitor’s Report Year 2 Implementation Plan at 7, http://www.mdhs.state.ms.us/pdfs/fcs_filed100908.pdf.

⁹⁵ Ct. Monitor’s Report Bridge Plan at 2, http://www.mdhs.state.ms.us/pdfs/fcs_bridgeplanreport112310.pdf.

⁹⁶ *Id.* at 4.

⁹⁷ Pl.’s Mot. for Contempt., http://www.mdhs.state.ms.us/pdfs/fcs_filed101005.pdf.

⁹⁸ Def.’s Mem. of Law, http://www.mdhs.state.ms.us/pdfs/fcs_contemptresponse120310.pdf.

No matter how the various ongoing motions turn out, it is clear that the *Olivia Y* settlement has the potential to significantly improve the lot of Mississippi's thousands of abused and neglected children. The question is the degree to which that will be the case. The state remains under court order to improve its prevention and response system both in terms of funding and human resources, meaning the state's answer to abuse and neglect will necessarily get better through the settlement. The court monitor's reports on state employees' commitment to reaching the settlement's goals are encouraging in and of themselves. If the plaintiffs prevail on their various motions and the state is actually required to meet its end of the bargain in terms of financial support, then the settlement may yet reach its full potential by vastly improving Mississippi's services for abused and neglected children.

Non-Governmental Efforts to Reduce Child Abuse and Neglect

Several private organizations in Mississippi work to combat child abuse and neglect. The Child Abuse Prevention Center is based in Gulfport and serves south Mississippi communities with four main programs.⁹⁹ First, the Child Advocacy Program provides case management to victims of abuse and neglect, helping clients through the administrative and judicial processes and referring them to community resources for medical and mental health care.¹⁰⁰ The Welcome Baby program provides broad-ranging support to new mothers, with a particular focus on at-risk first-time parents; clients receive education on infant care as well as individual emotional support when needed.¹⁰¹ The Inspiring Futures Mentoring Program provides mentors to families in Gulfport and Hattiesburg with the goal of serving as a comprehensive resource to improve overall quality of life and thereby reduce the incidence of child abuse and neglect.¹⁰² Finally, Victims of Crime Act ("VOCA") provides case managers to work with abused or neglected children on a weekly basis and to make sure children and families have access to all necessary resources.¹⁰³

The Mississippi Coalition Against Sexual Assault ("MCASA") provides a plethora of resources in the fight against sexual assault in general, but its efforts maintain significant focus on victims under age 18.¹⁰⁴ MCASA represents rape crisis centers for victims throughout the state, with locations in Biloxi, Columbus, Greenville, Hattiesburg, Jackson, Meridian, Natchez, Oxford, and Tupelo.¹⁰⁵ The coalition provides training for Pediatric Sexual Assault Nurse Examiners, preparing nurses to respond to juvenile sexual abuse.¹⁰⁶ MCASA also hosts or co-hosts several educational conferences, including the Putting Victims First Conference for Mississippi's direct service providers to network and receive training in

⁹⁹ THE CHILD ABUSE PREVENTION CTR., *Child Abuse Prevention Center—Serving South Mississippi* (2009), <http://www.msccpa.com/Home/tabid/38/Default.aspx>.

¹⁰⁰ The Child Abuse Prevention Ctr., *Our Programs* (2009), <http://www.msccpa.com/Programs/tabid/97/Default.aspx>.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ MISS. COALITION AGAINST SEXUAL ASSAULT, *Resources and Links* (2011), http://www.msccasa.org/resources_and_links.php.

¹⁰⁵ MISS. COALITION AGAINST SEXUAL ASSAULT, *About Us* (2011), http://www.msccasa.org/about_us.php.

¹⁰⁶ MISS. COALITION AGAINST SEXUAL ASSAULT, *Pediatric S.A.N.E.* (2011), http://www.msccasa.org/pediatric_sane.php.

dealing with crisis situations, including child abuse.¹⁰⁷

Family Crisis Services of Northwest Mississippi serves its eponymous region of the state with a variety of programs.¹⁰⁸ The organization provides education programs to elementary school students about protecting themselves and recognizing when an adult is touching or treating them inappropriately.¹⁰⁹ It engages in forensic interviewing in order to investigate suspicions or reports of child abuse in a manner that is safe and relatively low-stress for the victims themselves.¹¹⁰ Among its many other functions, Family Crisis Services also serves as part of the Mississippi Statewide Multidisciplinary Child Abuse Review Team Network, which is a state government-sponsored task force made up of stakeholders with the goal of improving the state's handling of child abuse and neglect issues.¹¹¹

III. Other States' Efforts to Combat Child Abuse and Neglect

Any effective system for preventing child abuse and neglect must include three types of prevention strategies: "universal, selective, and indicated" strategies.¹¹² Universal strategies target the general population, selective strategies target at-risk groups, and indicated strategies focus on groups that have experienced abuse or neglect.¹¹³ While few states have successfully implemented all three of these types of strategies, several states have effectively developed programs implementing at least one of them.

Universal Strategies

Public Awareness/Educational Campaigns

Several local and state governments have implemented wide-scale campaigns aimed at raising awareness of and educating people about child abuse and neglect. While the actual effects of public awareness and educational campaigns on child abuse and neglect rates has not been established, such programs have been found to inform the community about the issue as well as increase the average monthly calls to abuse & neglect telephone hotlines by 62%.¹¹⁴ Two robust public awareness/educational campaigns are Florida's Pinwheels for Prevention and the Saginaw County Child Abuse and Neglect Council (CAN) Campaign in Michigan.

¹⁰⁷ MISS. COALITION AGAINST SEXUAL ASSAULT, *Putting Victims First Conference* (2011), http://www.mscasa.org/putting_victims_first.php. The services listed here are just a few of the many provided by MCASA. More information is available at the coalition's main website, <http://www.mscasa.org/index.php>.

¹⁰⁸ FAMILY CRISIS SVCS. OF NORTHWEST MISS., INC., *Programs*, <http://www.watervalley.net/users/rcs/programs.html>.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ FAMILY CRISIS SVCS. OF NORTHWEST MISS., Miss. Statewide Multidisciplinary Child Abuse Review Team Network, <http://www.watervalley.net/users/rcs/msmcartn.html>.

¹¹² N.C. Institute of Medicine, *New Directions for N.C.: A Report of the N.C. Institute of Medicine Task Force on Child Abuse Prevention* (2005), available at <http://www.nciom.org/wp-content/uploads/NCIOM/projects/childabuse/chapters/finalCAPreport.pdf> (last visited July 27, 2011).

¹¹³ *Id.*

¹¹⁴ Promising Practices, *Promising Practices for Preventing Child Abuse and Neglect*, available at http://www.promisingpractices.net/briefs/briefs_childabuse.asp (last visited Mar. 16, 2011).

Florida's Pinwheels for Prevention campaign features:¹¹⁵

- Statewide distribution of Community Resources Packets
- Television and radio public service announcements
- Coordination and advertisement of community events
- Distribution of pinwheels and other products that have become well-known symbols of the fight against child abuse and neglect within Florida

Saginaw County, Michigan Child Abuse and Neglect Council campaign features:¹¹⁶

- Implementation of programs teaching high school students about child care through the use of infant simulators
- Hosting of open houses each month for individuals to find out about the programs and services offered by the Council
- Distribution of blue ribbons as a symbol of child maltreatment prevention
- Planning of a variety of activities and events during April (Child Abuse Prevention Month)
- Teaming up with McDonald's and a local radio station to increase public awareness of child abuse by broadcasting information pertaining to child abuse from the roof of a McDonald's restaurant

Finally, in an example of non-state actors getting involved in public awareness campaigns, a Virginia grandmother started the Blue Ribbon Campaign after the death of her grandchild as a result of child abuse. The Blue Ribbon Campaign seeks to provide national awareness about child abuse and to educate people on the types and signs of abuse and neglect.¹¹⁷

Planned Respite Care

Planned respite care involves providing recurrent care services to families over an extended period of time. Planned respite is "temporary relief" for the family or primary caregiver of a child: the service provider takes over all aspects of child care for a short period of time in order to provide the parent or other caregiver with a break.¹¹⁸ The availability of planned respite care programs has led to significant reductions in the likelihood of child abuse and neglect.¹¹⁹ For example, Volunteer Families for Children (VFC), which provides respite care to families in North Carolina, has been an effective resource in North Carolina's fight against child abuse and neglect.¹²⁰ Programs like VFC contribute to reductions in child

¹¹⁵The Ounce of Prevention Fund of Fla., *Pinwheels for Prevention*, available at <http://www.ounce.org/CAPMonth.html> (last visited Mar. 10, 2011).

¹¹⁶ *Public Awareness*, CHILD ABUSE AND NEGLECT COUNCIL OF SAGINAW COUNTY (2009), <http://cancouncil.org/public-awareness>.

¹¹⁷ Hopper, *supra* note 45.

¹¹⁸ Div. of Special Populations, *Respite Services*, Tenn. Dep't of Mental Health, http://www.tn.gov/mental/specialpops/sp_child_respite.html.

¹¹⁹ FRIENDS National Resource Center *Benefits of Planned and Crisis Respite Care: Fact Sheet Number 9*, available at http://www.friendsnrc.org/joomdocs/benefits_repsite.pdf (last visited Apr. 7, 2011).

¹²⁰ *See id.*

abuse and neglect by reducing the stress of participants and strengthening family relationships.¹²¹

Selective Strategies

Home Visitation

Various states have implemented home visitation programs that are available to families deemed at-risk for child abuse and neglect. These programs are an effective tool in combating child abuse and neglect because they ensure at-risk families continually have access to resources and support in times of crisis. Birth and Beyond in California provides home visitation as well as resource center services for at-risk pregnant women and families until their children reach five years of age. The in-home support includes case management services, school readiness activities, crisis intervention, safety planning, and referrals to community services.¹²² Participation in the program has been found to decrease Child Protective Services (CPS) reports for families by 60%.¹²³

There are numerous variations of the home visitation model. The Nurse Family Partnership (NFP) provides an example of one such variation. NFP began in Elmira, New York and now serves families in 32 states.¹²⁴ The program involves home visits by nurses during pregnancy and the first two years of a child's life.¹²⁵ Such intensive nurse home-visitation was found to reduce child abuse and neglect by 48%.¹²⁶ Legislation was passed in Mississippi in the 2010 legislative session authorizing the Mississippi State Department of Health to create an NFP pilot program in Mississippi, but there has been no widespread adoption of this program in the state to date.¹²⁷

Crisis Respite Care

Crisis respite care is the provision of relief to families by taking care of their children on a short-term basis. An effective crisis respite care program is the Children and Families in Common Project of King County, Washington, which offers hospital diversion beds, short-term residential beds, and crisis response services to families in times of emergency.¹²⁸ Eighty-two percent of those in questioned in a Family Resource Information, Education and Network Development Services (FRIENDS) survey stated that the availability of crisis respite care reduced the risk of harm to their children to an “extremely” or “very” high degree.¹²⁹ Similar to planned respite care, crisis respite care contributes to a reduction in

¹²¹ *Id.*

¹²² Birth and Beyond, *Birth and Beyond 07/08 Annual Report*, http://www.birth-beyond.com/Content/Evaluation/B&B_07_08_Annual%20ReporUPDATEDt.pdf.

¹²³ *Id.*

¹²⁴ Nurse-Family Partnership, *Program History*, <http://www.nursefamilypartnership.org/about/program-history> (2010).

¹²⁵ Nurse-Family Partnership, *What We Do*, <http://www.nursefamilypartnership.org/about/what-we-do> (2010).

¹²⁶ Child Welfare, *Child Neglect: A Guide for Prevention, Assessment, and Intervention* at 68, <http://www.childwelfare.gov/pubs/usermanuals/neglect/neglect.pdf>.

¹²⁷ Mississippi Legislature, HB 1067 (signed into law April 7, 2010).

¹²⁸ Research and Training on Family Support and Children's Mental Health, *Promising Practices in Respite Care*, www.rtc.pdx.edu/PDF/DallasSOCPromisingPracticesPresentation.pdf.

¹²⁹ FRIENDS National Resource Center, *Benefits of Planned and Crisis Respite Care*, http://www.friendsnrc.org/joomdocs/benefits_repsite.pdf.

harm to children by reducing family stress and providing much-needed resources.¹³⁰

Child-Parent Centers

Child-Parent Centers in Chicago provide educational and family support to economically disadvantaged children and their parents.¹³¹ The centers help pre-school age children develop basic reading, writing, and math skills.¹³² In addition, these educational centers require parental participation in programs relating to child growth and development, literacy, readiness skills, parenting skills, health, safety, and nutrition.¹³³ Extended participation in the program has been found to lower a child's chances of being neglected or abused by nearly one half.¹³⁴

Holistic Programs

Holistic programs utilize a variety of the above-mentioned selective strategies as well as some others not yet mentioned in this paper. A highly successful holistic program is the Relief Nurseries Program in Oregon. Relief Nurseries provide core services to high-risk families, which include therapeutic early childhood services, home visits, parent education classes, respite care, and alcohol and drug recovery support.¹³⁵ The risk of child abuse and neglect has been found to be cut in half by participation in the program.¹³⁶ The Parent Empowerment Program of New York provides another example of an innovative holistic program. This program consists of a six-month parenting class in a group education setting that teaches participants how to access medical services and how to build a social support system.¹³⁷ The Program also includes home visitation, a flexible parenting skills curriculum, and immediate medical and mental health services.¹³⁸

Indicated Strategies

Alternative Response

Ohio has developed a response to reports of child abuse and neglect that focuses on investigating the abuse and neglect in a non-adversarial manner. In this model, when investigating abuse and neglect, the state avoids determinations of fault and identification of victims and perpetrators while focusing on a broader array of family needs and soliciting input from families about services.¹³⁹ According to a study

¹³⁰ *Id.*

¹³¹ Chicago Public Schools, *Child Parent Centers*, <http://www.cps.edu/Schools/Preschools/Pages/Childparentcenter.aspx>.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Promising Practices, *Programs that Work: Child-Parent Centers*,

<http://www.promisingpractices.net/program.asp?programid=98>.

¹³⁵ Oregon.gov, *Evaluation of Oregon's Relief Nursery Program*,

http://www.oregon.gov/OCCF/Documents/Relief_Nurseries/Executive_Summary_Relief_Nursery_0209.pdf?ga=t.

¹³⁶ *Id.*

¹³⁷ Child Welfare, *Child Neglect: A Guide for Prevention, Assessment, and Intervention* at 69,

<http://www.childwelfare.gov/pubs/usermanuals/neglect/neglect.pdf>.

¹³⁸ *Id.*

¹³⁹ Institute of Applied Research, *Ohio Alternative Response: Final Report* at 9,

<http://iarstl.org/papers/OhioAREvaluation.pdf> (2008).

conducted by the Institute of Applied Research, “families that were served through the alternative response family assessment pathway had fewer new [child abuse] reports than control families that were approached through a traditional response investigative assessment.”¹⁴⁰

Parent Education

Parental education is often employed both as an indicated and selective strategy. For example, the Child-Parent Centers mentioned above can be viewed as a parental education program in a selective strategy context. Project SafeCare, a federal program, is an example of a parent education program utilized as an indicated strategy. SafeCare is a 15-week intervention program that has been proven to lower rates of recidivism for families that have neglected or abused their children.¹⁴¹ SafeCare gives parents an opportunity to view model parenting skills and practice such skills with feedback from an in-home counselor.¹⁴² In addition, the program teaches parents about safety hazards and cleanliness, how to recognize when a child is ill, seek emergency treatment, and self-treat an illness.¹⁴³ Finally, parents receive training on how to increase the positive interactions they have with their children by learning skills such as how to plan stimulating play activities.¹⁴⁴

IV. Conclusion

Child abuse and neglect produce a plethora of negative outcomes, both for the individual victims and for society as a whole. Because of the profound, life-long impacts abuse and neglect can have on victims and the societal costs of child welfare and increased crime and juvenile delinquency, abuse and neglect remain major issues even as the number of victims has consistently decreased over the last few years. This recent improvement on the national level can likely be attributed, at least in part, to the combined “universal, selective, and indicated” strategies in use by governmental and private entities working to combat the scourge of child abuse and neglect. While Mississippi has engaged in some effective prevention and response in its own right, at least some of the state’s action has been forced by the *Olivia Y* settlement. Many services for victims and at-risk children in Mississippi are still sorely lacking, as evidenced by slow implementation of the *Olivia Y* settlement agreement. The private non-profit organizations committed to addressing abuse and neglect have limited resources, so the bulk of Mississippi’s improvement will likely have to come from the state. It is imperative that Mississippi make further strides in dealing with child abuse and neglect—both to improve the lives of thousands of the state’s children and to improve many of its economic and societal indicators.

¹⁴⁰ *Id.* at 14.

¹⁴¹ Child Welfare, *Child Neglect: A Guide for Prevention, Assessment, and Intervention* at 75, <http://www.childwelfare.gov/pubs/usermanuals/neglect/neglect.pdf>.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*