EXPLORING THE EVOLUTION OF DRUG ENDANGERED CHILDREN'S MOVEMENT AND DRUG COURTS

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I. INTRODUCTION

Illicit use of substances and the attempt to control the social hazards related to use, production, and sale of these substances has long been part of American history. Opium dens were first outlawed in San Francisco in 1875.[1] The Harrison Act of 1913[2] limited the sale of substantial amounts of cocaine except by physicians and pharmacists.[3]

Taxes were required on the sale of opium and record books including the names of customers were required.[4] Some states began to provide drug education in schools as early as the 1930s, yet the 1950s brought an increase in the use of amphetamines and tranquilizers.[5] At the same time that young America struggled with increasing troubles associated with addiction, another social problem began to emerge. Interventions ranging from orphan trains to children's hospitals were implemented to address child abuse.[6]

Part II of this paper will review the history of drug use and child abuse in the United States, and draw contemporary parallels between them. In Part III, drug endangerment will be discussed. In Part IV, the effectiveness of drug courts, including family drug courts, will be assessed.

II. DRUG USE AND CHILD ABUSE

Drug use and child abuse are both important societal problems in America. However, many times each problem is viewed as having no

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1. DAVID T. COURTWRIGHT, DARK PARADISE: OPIATE ADDICTION BEFORE 1940 78 (1982).
2. Harrison Narcotics Tax Act of 1914, ch. 1, 38 Stat. 785 (1914).
3. *Id.*
4. *Id.*
5. Jerome Beck, *100 Years of "Just Say No" Versus "Just Say Know,"* 22 EVALUATION REV. 15, 16 (1998).
6. Loraine County Children Services, Brief History of Child Welfare in America, http://www.childabuse.net/usachildwelfarehistory.html (last visited Jan. 11, 2007).

correlation with the other. Thankfully, there are increasing national efforts to improve outcomes for children of substance using parents. This section of the article will discuss, in turn, drug use and child abuse in an effort to improve outcomes for children of substance using parents.

A. DRUG USE

Despite attempts to decrease or eliminate availability of drugs, in 1995, the United States continues to have approximately 12.8 million Americans, or six percent of the household population aged twelve and older, who continue to abuse substances on a current basis.[7] It is important to note that this number has decreased by fifty percent, from a high of twenty-five million in 1979.[8] Results of the 2003 National Survey on Drug Use and Health reported that an estimated 19.5 million Americans, or 8.2% of the population aged twelve and older, are current illicit drug users.[9]

Despite the fact an estimated forty-five percent of Americans know someone with a substance abuse problem, many people still believe drug abuse is not a problem.[10] Multiple studies have shown that about two-thirds of people in treatment report they were physically, sexually, or emotionally abused during childhood.[11] Though childhood abuse is clearly associated with adult substance abuse and later substance abuse in their own adulthoods, a response to drug related child abuse would not have a name until the early 1990s, when Narcotics Task Force Officer Sue Webber Brown founded the Drug Endangered Child movement in Butte County, California.[12]

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7. National Criminal Justice Reference Services, America's Drug Abuse Profile, http://www.ncjrs.gov/htm/chapter2.htm#2_6large (last visited Mar. 1, 2007) [hereinafter NCJRS].

8. *Id.*

9. U.S. DEP'T OF HEALTH AND HUMAN SERVICES, RESULTS FROM THE 2003 NATIONAL SURVEY ON DRUG USE AND HEALTH: NATIONAL FINDINGS 11 (2003), *available at* http://www.oas.samhsa.gov/nhsda.pdf.

10. NCJRS, *supra* note 7, at 1 (stating that although almost a majority of Americans know someone with a drug problem, the perception is that drug abuse is not a national problem).

11. Sara E. Guiterres & Christina Van Puymbroeck, *Childhood and Adult Violence in the Lives of Women Who Misuse Substances*, 11 AGGRESSION AND VIOLENT BEHAVIOR, 497, 499-504 (2006); National Institute on Drug Abuse, *Exploring the Role of Child Abuse in Later Drug Abuse,* 13 NIDA NOTES 1 (1998), *available at* www.nida.nih.gov/NIDA_notes/nnvol12n2/exploring.html (last visited Apr. 16, 2007).

12. Kimberly Mills, *California Protects the Children of Meth Addicts*, SEATTLE POST-INTELLIGENCER, Dec. 16, 1999, at A25, *available at* http://seattlepi.nwsource.com/methamphetamines/calif.shtml (last visited Apr. 11, 2007).

B. AMERICAN CHILD ABUSE

The Orphan Train movement was initiated by Reverend Charles Loring Brace and the Children's Aid Society as a response to the 30,000 abandoned children living on the streets of New York.[13] The term "orphan" was a general term that described the experiences of these children that ranged from children who were victims of abuse or drunkenness, or whose parents were deceased, or involved in a life of prostitution.[14] The Orphan Train movement was ground breaking because of the view taken by many members of the upper class who believed "lower classes" get what they deserve.

The Children's Aid Society, unlike other charitable groups of the time, determined that it should teach boys how to behave, dress, and save money.[15] However, due to the overwhelming number of children in the program, the Children's Aid Society determined that a "family plan" was best. It sent children west to receive food, clothing education, and spiritual training in the same manner provided to the family's own biological children. Emerging through this movement was the dawn of the American "foster care" system.

A parallel effort of this time was the New York Foundling Hospital. The Foundling hospital maintained the mission of the Children's Aid Society but differed in the way it placed children in homes. Up to this point in time, hospitals had always accepted abandoned babies. Families desiring a child would send a request for a baby. That baby would be sent by train to meet the family. The Foundling Hospital carried on this work, but found itself with more children than it could adequately care for. The Foundling Hospital was unique in that it maintained a policy of only placing children in Catholic families.

During these times, children were seen as property and any maltreatment of children would typically have been viewed as a private matter, not for public inquiry. In 1853, the first case of child abuse was tried and won under the writ of habeas corpus, an obscure provision.[16] In this case, a child named Mary Ellen Wilson was found frail with large gashes on her face and body.[17] Mary Ellen was the daughter of Irish

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13. STEPHEN O'CONNER, ORPHAN TRAINS: THE STORY OF CHARLES LORING BRACE AND THE CHILDREN HE SAVED AND FAILED 148 (2001).

14. *See* Loraine County Children Services, *supra* note 6, at 1 (explaining the term "orphan").

15. *See generally id.* (explaining the efforts of the Children's Aid Society).

16. *See* Mary R. Jalongo, *The Story of Mary Ellen Wilson: Tracing the Origins of Child Protection in America*, 34 EARLY CHILDHOOD EDUC. J. 1 (2006) (recognizing the popular myth that Mary Ellen was legally protected by an animal abuse law, but resolving the matter by explaining that she was actually protected by the habeas corpus provision).

17. *Id.*

immigrants and was placed for adoption after the death of her father rendered her mother unable to provide care for the little girl.[18] Mary Ellen's guardian physically abused her. With the help of Henry Bergh, a well-known New York City attorney, Mary Ellen was taken from the abusive environment and her abuser was sentenced to one year of hard labor in the penitentiary.[19]

Today, types of child maltreatment are more clearly defined. The United States Department of Health and Human Services estimates that three million alleged cases of abuse exist, with 872,000 children confirmed as abused in 2004; these statistics may be considered underestimates.[20] These data are collected for publication in the annual report, *Child Maltreatment*.[21] Of these cases, approximately sixty percent were neglected by a parent or caregiver, eighteen percent were physically abused, ten percent were sexually abused, and seven percent were emotionally maltreated.[22]

In 2003, of 3,353,000 children whose cases were investigated, 906,000 children were found to be victims.[23] Of these cases of abuse, an approximate sixty-one percent experienced neglect, nineteen percent were physically abused, ten percent were sexually abused, and five percent were emotionally abused.[24] Some children may have experienced multiple types of abuse. As a result, a category of "other" abuse includes more specific descriptions of abuse including "abandonment," "threats of harm to child," and "congenital drug addiction," which accounts for approximately seventeen percent of cases.[25]

Although some data do estimate the number of child abuse cases that involve adult substance abuse, data collection that allows further investigation of the issue does not yet exist. Some national estimates indicate that somewhere between fifty and sixty percent of child abuse cases are linked to adult substance using behavior.[26] The Child Abuse

18. *Id*.
19. *Id*. at 2.
20. U.S. Dep't of Health and Human Servs., *Child Maltreatment*, HHS NEWS (Apr. 1, 2005), *available at* http://www.acf.hhs.gov/programs/cb/publications/cmreports.htm (last visited Apr. 16, 2007).
21. *Id*.
22. *Id*.
23. *Id*.
24. *Id*.
25. *Id*.
26. *See* Richard Famularo et al., *Parental Substance Abuse and the Nature of Child Maltreatment*, 16 CHILD ABUSE AND NEGLECT 475 (1992), *available at* http://www.sciencedirect.com/science (providing an outline and abstract of the published article).

Prevention and Treatment Act[27] (CAPTA) mandates notification of child protection staff if substance-exposed newborns are identified as being affected by illegal substance abuse.[28] However, the states' responses differ with a range from developing a plan of safe care to a implementing a complete needs assessment for the family. Illinois and Minnesota require mandated reporting when substance use by a pregnant woman is suspected.[29] Kentucky jails have instituted a new policy of testing all women inmates for pregnancy and transferring them to a correctional facility where they can receive proper prenatal care.[30]

Although there is evidence that seems to be screaming the answers, many agencies are finding that solution is as much an art as a science in benefiting children and providing solutions for families in crisis. And, although child abuse is generally unaccepted by society and guidelines of types of abuse are offered, a consistent operational definition of child abuse does not exist.[31] State guidelines vary from one another, and factors such as cultural perspective and volume of caseload may impact the way cases are investigated and the types of abuse resulting in substantiation.

Although the likelihood of recovery from methamphetamine addition is not a lost cause, it can be a difficult process. Early reports indicated that recovery from meth addiction was nearly impossible. Now however, high rates of recovery are reported.[32] The truth probably lies somewhere in the middle. As with most treatment attempts, it is important that the treatment offered is consistent with the needs of the person seeking recovery. As with most drugs, the incentive to stop using drugs will be motivated by external factors such as loss of job, loss of home, decrease in health status, criminal involvement, and/or loss of children. Although most methamphetamine addicts will express love for their children, few will disagree that while they

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27. Keeping Children and Families Safe Act of 2003, Pub. L. No. 108-36, 117 Stat. 800 (amending the Child Abuse Prevention and Treatment Act).

28. U.S. Dep't of Health and Human Servs., *Child Abuse Prevention and Treatment Act: As Amended by the Keeping Children and Families Safe Act of 2003*, *available at* http://158.71.31.30/programs/cb/laws_policies/cblaws/capta03/capta_manual.pdf.

29. *See* Child Welfare Information Gateway, *Parental Drug Abuse as Child Abuse*, Aug. 2006, at 1, *available at* http://www.childwelfare.gov/systemwide/laws_policies/statutes/drugexposed.cfm [hereinafter CWIG].

30. Kentucky Dep't of Corrections, DOC Launches Pregnancy-Screening Program for Jail Inmates (Nov. 28, 2006), *available at* http://www.corrections.ky.gov/news/DOCLaunches-Pregnancy.htm (last visited Apr. 16, 2007).

31. *See* Child Welfare Information Gateway, Definitions of Child Abuse and Neglect, http://www.childwelfare.gov/systemwide/laws_policies/statutes/define.cfm (last visited Apr. 16, 2007).

32. Jeanne L. Obert, Edythe D. London, & Richard Rawson, *Incorporating Brain Research into Standard Treatment: An Example Using the Matrix Model*, 23 J. SUBSTANCE ABUSE TREATMENT 107, 110 (2002).

were using, there was no higher priority than seeking, manufacturing, or using that drug.[33]

Children are very resilient and more capable of unconditional love and forgiveness than most. Children do not want to be separated from the only homes they know—sometimes regardless of how severe the abuse. However, with the vast number of reports indicating a strong correlation between childhood victimization and substance misuse, how can we afford to not consider the seriousness of this cycle? Otherwise, children and parents will not learn ways to promote emotional well-being in a way that is sensitive to the perspective of the recovering person while protecting a child's emotional well-being.[34]

An overview of studies summarized by Guiterres and Puymbroeck looked at lifetime use of drugs and childhood victimization.[35] In a study of adolescents in a juvenile detention center, fifty-one percent of males and females reported physical abuse.[36] In a study of adults at a residential treatment facility, fifty-nine percent of females and thirty-three percent of males reported sexual victimization one or more times.[37] Forty-one percent of males and seventy-nine percent of females reported emotional abuse.[38] In an additional study of adult male and female prisoners who participated in a prison substance abuse program reported that 65.7% of males and 68.9% of females reported physical abuse while 14.7% of males and 53.3% of females reported sexual abuse.[39] Of those reporting emotional abuse, 54.3% were male and 68.9% were female.[40] And of those reporting physical/emotional neglect, 34.3% were male and 32.6% were female.[41]

These statistics provide a simple overview of what is known to be problematic—substance abuse and its impact on children. Despite years of study on adults who were abused as children and estimates of their future risk of addiction, have we failed to act on what seems to be the most obvious connection? Can substance abuse be viewed as a maladaptive coping mechanism? Can child abuse be viewed in the same manner? Responding

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33. CATHLEEN OTERO ET AL., METHAMPHETAMINE ADDICTION, TREATMENT, AND OUTCOMES: IMPLICATIONS FOR CHILD WELFARE WORKERS 5-6 (2006), *available at* http://www.ncsacw.samhsa.gov/Meth%20and%20Child%20Safety.pdf.

34. George A. Bonanno, *Loss, Trauma, and Human Resilience: Have We Underestimated the Human Capacity to Thrive After Extremely Aversive Events?*, 59 AM. PSYCHOL. 20, 26 (2004).

35. Guiterres & Peuymbroeck, *supra* note 11, at 507-08.

36. *Id*. at 507.

37. *Id*.

38. *Id*.

39. *Id*.

40. *Id*.

41. *Id*.

to problems of addiction and child maltreatment can be difficult because, in each case, one has a limited understanding of respective etiology.

Regardless of the "why" of substance abuse or the "why" of child abuse, the outcome needs to be the same—the abusive or harmful behavior must stop. Controlling the decisions of others is difficult to do, because guidelines and case plans are often difficult to monitor or enforce. In addition, a family's history with substance use may be so deeply rooted that a single-pronged approach is grossly insufficient. Like many social problems, the solution may be somewhat of an enigma and may involve groups that historically have not worked together and frankly may not want to work together. However, with the nature of drugs like methamphetamine, individuals are use to witnessing human suffering and social ills that many people can scarcely imagine. It is the loss of innocent life in a way that is horrifying and brutal, and perhaps even preventable.

Until the day after Christmas 1995, methamphetamine cases were viewed just as any other drug case. On that day, three young children died in a meth lab explosion inside their house.[42] This was the case that increased attention for the needs of children living in drug homes. Immediately, prosecutors began to file charges against suspected meth makers who expose children to such dangerous conditions. Before the drug endangered child movement, children were not interviewed as potential witnesses to a crime, nor were they evaluated for physical or psychological damage. In many cases, the children witnessed the arrest of their parent before being handed off to someone else. Children then would return to filthy homes that lacked electricity or homes that were littered with drug paraphernalia.[43]

Katie Collman became a kidnapping and homicide victim after witnessing a meth cook in progress inside an apartment in Southern Indiana.[44] Shortly after the murder of Katie Collman, eighteen month-old Kaylynn Gaddie was murdered by her mother's boyfriend who had missed a sentencing date for previous crimes almost three months prior.[45] Kaylynn's

42. *Three Die in Blaze Linked to Meth Lab*, N.Y. TIMES, Dec. 28, 1995, at G1, *available at* http://query.nytimes.com/gst/fullpage.html?sec=health&res=9403E2DF1239F93BA15751C1A963958260.

43. *Fighting Meth in America's Heartland: Assessing the Impact on Local Law Enforcement and Child Welfare Agencies*, 109th Cong. 1-2 (2005) (statement of Laura J. Birkmeyer, Chair, National Methamphetamine Chemicals Initiative), *available at* http://www.sonoma-county.org/health/aods/pdf/methamphetamine/lbirkmeyertestimony.pdf.

44. CourtTV Networks, *Al Roker Investigates: Meth, Murder, and Madness*, (n.d.), *available at* http://www.courttv.com/choices/al_roker_meth/index.html (last visited Mar. 1, 2007).

45. Laura Bauer, *Suspected Killer Had Skipped Sentencing*, COURIER J. (Louisville, Ky.), Dec. 14, 2004, at A1, *available at* http://www.courier-journal.com/localnews./2004/12/14ky/A1-fugitive.html.

mother did not report Kaylynn missing on the Wednesday of her death because of an outstanding warrant on her in another county.[46] She was told Kaylynn was with relatives.[47] By Friday evening, a missing person report was filed and her body, beaten, placed in a garbage bag, and thrown in a creek, was discovered.[48] It was because drug crimes were not considered serious enough to place urgency on the serving of three warrants that the perpetrator of the crime, Shawn Michael Shaw was free to commit this brutal act.

In sum, drug use can sometimes be associated with child abuse. Exact explanations for the correlation in each case and situation are not completely understood. However, child abuse is such a serious concern that government agencies and other groups in society must work together to keep children from suffering negatively from drug use.

III. DEFINING DRUG ENDANGERMENT

Defining drug endangerment in one succinct sentence is difficult given that every jurisdiction may employ a different explanation. This section of the article will discuss the definition of child endangerment in select state jurisdictions. The discussion will then turn to child endangerment in terms of Maslow's hierarchy of needs. The section will end with an explanation of child endangerment as it relates specifically to methamphetamine.

A. DEFINITION OF CHILD ENDANGERMENT IN THE STATES

The August 2006 Child Welfare Information Gateway report indicates that although fifteen states have enacted specific reporting procedures for drug exposed infants,[49] thirteen states include exposure of infants to drugs in their definitions of child abuse or neglect.[50]

Specific circumstances that define abuse are:

- The manufacture of a controlled substance in the presence of a child or on the premises occupied by a child (Colorado, Indiana, Iowa, Montana, New Mexico, Oregon, South Dakota, Tennessee, Virginia).

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46. *Id*.
47. *Id*.
48. *Id*.
49. CWIG, *supra* note 29, at 3 (stating that the fifteen states include: Arizona, California, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, Oklahoma, and Utah).
50. *See id*. (stating that the thirteen states include: Arkansas, Colorado, Florida, Illinois, Indiana, Massachusetts, Minnesota, North Dakota, South Carolina, South Dakota, Texas, Virginia, and Wisconsin).

- Allowing a child to be present where the chemicals or equipment for the manufacture of controlled substances are used or stored (Arizona and New Mexico).
- Selling, distributing, or giving drugs or alcohol to a child (Arkansas, Florida, Hawaii, Illinois, Iowa, Minnesota, Texas, and Guam).
- The use of a controlled substance by a caregiver that impairs the caregiver's ability to adequately care for the child (Kentucky, Iowa, Minnesota, New York, Rhode Island, and Texas).
- The exposure of the child to drug paraphernalia (North Dakota and Oregon).
- The exposure to the criminal sale or distribution of drugs (Montana and Virginia).
- The exposure to drug-related activity (D.C.).

Nearly half of the states have enacted statutes that make it a crime to expose children to drug activity. These states include: Alaska, California, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Pennsylvania, Utah, Virginia, Washington, West Virginia, and Wyoming.[51]

As shown by the definitions above, the definition of child abuse differs significantly in some cases, although the overall categories of physical, sexual, emotional abuse, and neglect remain the same. The drug endangered child movement is not about removing children and saying that parents are horrible people who should never have access to their children again. Instead, the drug endangered child movement is a way of reviewing how each agency can contribute to the collective understanding of what really happens to children exposed to drug environments. The movement studies the impact that substance abuse has on parenting ability and the need for treatment. Treatment for methamphetamine may be as long as one to two years. Federal mandates require a permanency plan for any child that has been in out-of-home care for fifteen of the last twenty-two months. Policies, mandates, and the evolution of knowledge about treatment of methamphetamine addiction call into question the reality of restoring families while meeting guidelines.

A drug endangered child is a subset of children who experience physical, sexual, emotional abuse, and neglect as a result of adult drug activity as defined by the use, production, or sale of methamphetamine or illicit substances. This definition may not fit neatly into every legal definition of

51. *Id*. at 3-4.

child maltreatment, but it can be extremely helpful when legal recommendations are made. The very nature of drug endangerment acknowledges that substance abuse is the factor believed to be leading to subsequent abuse. By viewing drug endangered abuse in this manner, it is easy to see how substance abuse treatment can fit into the equation and how. If progress is not achieved within an allotted period of time, permanency outside the home should be pursued for the well-being of the child.

B. CHILD ENDANGERMENT IN LIGHT OF MASLOW'S HIERARCHY OF NEEDS

Many substance abusers may not have the intent to neglect or abuse their child. However, the presence of drugs in the home, exposure to other drug-affected individuals who may intend sexual or other harm to children, and the primary fact that drug abuse affects thought patterns that are not reasonable leads to neglect. Using Maslow's five levels of needs hierarchy, it is possible to see, as provided below, that even the most basic of human needs are not provided when meth is present in children's homes.[52]

1. *Physiological Needs*

Level one of Maslow's hierarchy of needs is concerned with the basic needs of humans.[53] For instance, does the home have food that is free from contaminants, and is air safe for breathing? In methamphetamine homes, food may be contaminated with chemicals and methamphetamine and air becomes filled with methamphetamine and other chemicals that are released during the meth production process.

2. *Safety Needs*

Level two of Maslow's hierarchy of needs centers on safety.[54] As applied to our discussion of meth homes, children need to know they are safe from harm. Drug homes frequently have strangers who are substance abusers in and out of the home at all hours of the evening. Children may be exposed to individuals who may be sexual predators or who, because of a methamphetamine-induced sex drive, may have lowered inhibitions that would allow them to sexually perpetrate a minor. Some substance-using parents may allow another adult to take their child for a couple of hours in

52. Janet A. Simons et al., *Maslow's Hierarchy of Needs*, *in* THE SEARCH FOR UNDERSTANDING (Janet Simons et al., eds., 1987), *available at* http://honolulu.hawaii.edu/intranet/committees/FacDevCom/guidebk/teachtip/maslow.htm (last visited Apr. 11, 2007).

53. *Id.*

54. *Id.*

exchange for a quantity of drugs. These children may be used for sexual purposes as part of this arrangement.

3. *Need of Love, Affection and Belonging*

Maslow's third level is concerned with the human need for belonging and love.[55] Therapists and others who work with children of drug homes will agree that the children view the basic rules of a drug home to be: do not talk, do not trust, and do not feel. Children in drug homes have to earn their position in the home including the right to stay there. These children may be abandoned, left with relatives, or even with strangers for days at a time. Their opportunity to bond or form healthy attachments with adults may be limited. Children of drug homes may say parents love their drug, but do not love them.

4. *Need for Esteem*

Maslow's fourth level focuses on the need for esteem.[56] The need for esteem describes the feelings and perceptions an individual has of himself or herself, as well as the need for positive enforcement from others. When these needs are met, a person feels self-confident and valuable. Children who have been deprived of positive feedback may not be performers in school. In addition, children may not have involvement within the community that allows for such needs to be met. They may have a difficult time recognizing their own self-worth. If they rely on addicted parents to do it, positive responses may not exist at all or may only be enforced in situations that involve the protection or use of drugs. Because children in drug homes crave to be part of something and socialization in drug homes often revolves around the drug and feelings of paranoia are paramount, it is no wonder that children in drug homes are estimated two to four times more likely to abuse drugs themselves.

5. *Needs for Self-Actualization*

The last of Maslow's levels pertains to self-actualization.[57] Self-actualization describes the desire of a person for whom all other needs have been met to fulfill his or her purpose in the world. If a caregiver's only purpose in the world is to get high and that activity, although rewarding in the short-term, results in loss, isolation, destruction, poor health, and even

55. *Id.*
56. *Id.*
57. *Id.*

death, there may be little opportunity for a child whose life experience is abuse and drug exposure to achieve a level of self-actualization.[58]

Overall, Maslow's levels of need can be used in understanding the needs of children exposed to methamphetamine. Children whose parents or guardians use or manufacture methamphetamine risk children's basic needs of food and air, as well as their needs for safety, belongingness, and love. In addition, children exposed to methamphetamine are at risk for esteem and self-actualization.

C. CHILD ENDANGERMENT AS APPLIED TO METHAMPHETAMINE SPECIFICALLY

Methamphetamine is the drug that seems to have forced groups of law enforcement officers, emergency medical responders, child protection workers, public health, the medical and legal community, and county or city administrators to revisit their policies on this issue. Methamphetamine production creates a hazardous environment with substantial risk of fire or explosion. For each pound of drug that is produced, an estimated five pounds of toxic waste remain.[59] Levels of methamphetamine and other toxins are proven to remain on surfaces and to penetrate porous materials throughout a home. Bedding, furniture, plumbing, and ventilation systems become contaminated and are not safe for human use. Property remediation is expensive and is the responsibility of the property owner. Because of the high cost of clean-up to ensure that the property is safe for human use, law enforcement bodies typically do not seize meth properties. The liability is simply too high.

Use of methamphetamine creates startling and often immediate change in the personality of its user. The drug may be eaten, snorted, smoked, or injected with each of the routes of administration increasing the risk of addiction and long-term neurological damage from use. Employment, non-drug involved social activity, and childcare become much less important than drug manufacture, sexual pleasure, drug use, and enjoying the thrill of the meth-lifestyle.

The use cycle is generally known to have three phases. First, the "binge" or "use" phase occurs when the drug is administered and the user is able to achieve the high that methamphetamine (a.k.a., crystal, ice, crank) is known for producing. This stage is characterized by euphoria, rapid speech, teeth grinding, lack of sleep, and feeling very competent.

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58. *Id.*

59. Meth Lab Exposure: Health Risks, http://www.co.boulder.co.us/health/meth/health-Impacts/labs.htm (last visited April 3, 2007).

The second phase is known as "tweaking." Simply put, this is the period when the body has gone without sleep for days, if not weeks. With repeated use of the drug, the brain is attempting to achieve homeostasis and the euphoria that was once possible for the user, but is now unachievable. The user may appear calm during this period of time but may quickly become violent. Auditory and visual hallucinations known as "shadow people" are common experiences during this phase. Sexual arousal is heightened during this time as well.[60] For children in need of care, their attempt to receive comfort and care may receive a violent response from the adult user.[61]

The final stage of the use cycle is called the "crash" phase. This phase occurs when the methamphetamine user enters a deep sleep. The sleep may come suddenly and may last for several days. Some methamphetamine users will use prescription drugs to ease the nausea and help them go to sleep. During this time, as other periods of time the drugs are used, children are at extreme risk of neglect or abuse. Other characteristics of the drug home include: other drug users frequenting the home and having access to children to use for sexual purposes or to abuse; plumbing, often used to dump chemicals, may become clogged and, therefore, human and animal waste may be observed throughout the home; and methamphetamine suppresses the appetite, thereby decreasing hunger felt by its user resulting in no food for children. If there is food in the home, it will be contaminated itself or served on dishes that have been contaminated through the production of methamphetamine in the home.[62]

In conclusion, the definition and elements of child endangerment are not likely to be boiled down to one set of universal precise terms across jurisdictions. Instead, child endangerment can be understood in terms of select state approaches, Maslow's hierarchy of needs, and as applied to methamphetamine cases specifically. For the sake of endangered children, governments and citizens everywhere must work to protect children from the risks and harms presented by methamphetamine.

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60. Richard A. Rawson et al., *Drugs and Sexual Effects: Role of Type and Gender*, 22 J. SUBSTANCE ABUSE TREATMENT 103, 103 (2002).

61. Mary-Lynn Brecht et al., *Methamphetamine Use Behaviors and Gender Differences*, 29 ADDICTIVE BEHAVIORS, 89, 102 (2004).

62. *See* John Martyny, Chemical Exposures Associated with Clandestine Methamphetamine Laboratories, (Colorado Alliance for Drug Endangered Children) (n.d.), http://www.colodec.org/decpapers/NatlJewishStudySynopsis.htm (last visited Apr. 16, 2007) (explaining how meth residue is left throughout residences used to manufacture meth, thereby contaminating all substances and surfaces in which the residue contacts).

IV. DRUG COURTS AND FAMILY DRUG COURTS

Drug courts are specialized courts that offer intensive, weekly supervision for criminal offenders whose involvement in the legal system is believed to be caused by their substance abuse. Drug courts, now recognized as more effective than incarceration or traditional levels of community supervised release, are also an effective strategy for assisting methamphetamine addicts in need of additional support while on the road to recovery. Drug courts are unique in their response to substance abuse because one size does not fit all. Participants of drug court receive rewards, privileges, and sanctions. Sanctions include frequent court appearances required, frequent drug tests, oversight of living arrangements, community service, and jail time. Drug court staff has an opportunity to develop relationships with clients that allow for a more holistic approach to treatment than may be possible in other treatment settings. Length and drug of addiction may influence treatment strategies to ensure that individuals who may experience a range of cognitive limitations resulting from drug use understand expectations of the program.

Cooperation with law enforcement officers and drug court staff who make home visits can allow an opportunity for problematic behavior to be addressed before behaviors get out of control. If children are living in an out-of-home placement because of child maltreatment, information that can be shared between agencies may result in more complete case plans which may decrease the likelihood of future instances of child maltreatment. Children identified as drug endangered may also have access to services that help them understand the nature of addiction.

Although drug courts are significantly more comprehensive than traditional courts, criminal drug courts lack design and resources to respond to every need that may be faced by a family. Although referrals may be made to outside agencies, each outside referral creates an opportunity for the drug court participant to manipulate or pit one agency against another. These "turf" issues and individual tendencies to advocate for clients run the risk of distracting professionals from the issue at hand which may be treatment, progress of the adult, or safety of children.

One perspective may be that separation from a child is placing stress on the criminal drug court participant that the drug court case manager believes may be alleviated by family reunification. The Child Protective Service worker may be at a loss to understand how this can be so when a primary issue related to child maltreatment has yet to be resolved. It is rare that professionals who have a very legitimate role in determining child safety or adult substance abuse treatment, may have difficulty understanding the

perspective and limitations of each respective agency to fulfill his or her duties and to achieve agency objectives.

An additional barrier to providing complete family services in cases of child maltreatment is the differential perspectives states have regarding the definition of child abuse. States such as California have Level One and Level Two cases that assign a level of severity to abuse. Emotional abuse remains the type of abuse that is most difficult to prove. As such, emotional abuse may very well be the type of abuse that leads to the greatest degree of social problems throughout the lifespan of abused children. Some people argue that it is impossible to know exactly how many children experience abuse and neglect. However, experts estimate the numbers of abused children are higher than the number identified as abused and neglected.[63]

For more than a decade drug courts have met the needs of drug affected criminal offenders in many states and have successfully utilized this coercive treatment model to intervene in the lives of methamphetamine offenders.[64] Drug court staff has learned the value of intensive monitoring, ongoing accountability, and longer treatment periods while implementing proven treatment strategies and taking into consideration existing mental illness that may affect program participants. It is possible that the best criminal rehabilitation that can occur is the working together of community drug courts and drug endangered child multidisciplinary teams. Although the perspectives are different, the goals of each group truly are in alignment. Drug endangered children teams seek to rescue, shelter, defend, and protect children who live in a drug environment. Through the use of these methods, drug courts have created safer communities, reunited families, and helped adults discover lives free from addiction.

Drug courts combine public health and public safety approaches for the benefit of the offender and the community in which he or she lives. The unique characteristic of drug courts is the ability to force change or to deliver a consequence if change is not achieved. This is a luxury typically not afforded by child protection workers or traditional treatment programs that do not have a judicial link. Behavior change is difficult and regardless of the issue at hand, change only occurs if the current status is deemed to be

63. Nat'l Inst. on Drug Abuse, *Exploring the Role of Child Abuse in Later Drug Abuse*, www.nida.nih.gov/NIDA_notes/nnvol12n2/exploring.html (last visited Jan. 11, 2007).

64. ADELE V. HARRELL & ALICE GOODMAN, REVIEW OF SPECIALIZED FAMILY DRUG COURTS: KEY ISSUES IN HANDLING CHILD ABUSE AND NEGLECT CASES 5-9 (1999), *available at* http://www.urban.org/url.cfm?ID=410367.

problematic. Legal motivation to behavior change, also known as coercive treatment, can be very effective.[65]

Given the demonstrated success of criminal drug courts, it is no surprise that family courts began to investigate the model as a tool to respond to the burdensome number of child abuse cases that involved placements of children from substance abusing families. Child maltreatment cases involving adult substance abuse can be complicated and require a plethora of services if the family is to be successfully and permanently reunited. It is common knowledge that most of the court systems in America are overworked and backlogged. Therefore, the lack of opportunity to assess and properly intervene with families, preventing removal from substance involved homes becomes more difficult. Again, the message being when drugs are involved, adults become unable to make reasonable decisions to provide structure, safety, and care for children.

As previously mentioned, federal mandates included in the Adoption and Safe Families Act of 1997[66] require permanency plans for any child in out of home care for fifteen of the last twenty-two months; this may include a motion to terminate parental rights.[67] Family court judges are required to act quickly and to protect children who have been abused. Family drug courts, which blend family drug courts into the criminal drug court model, may provide hope for those who help substance-using parents find recovery. Furthermore, family drug courts seek to protect children who have been maltreated by these parents; children now known as "drug endangered children."

The multi-agency disconnects that so often fail to benefit children and reunify families have been recognized by health care professionals, child welfare advocates, policymakers, and social service agencies. With the family drug court model, it is possible for agencies to maintain their historic responsibility and role. However, the shared accountability and increased communication may bring opportunity to assure continuity of care, protect the parent-child relationship, identify endangered children, make referrals to early prevention programs and substance-abuse-addiction classes, and to create increasing awareness of future policies that may improve the safety of children and improve support systems offered to families before a crisis arises.

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65. STEVEN BELENKO, RESEARCH ON DRUG COURTS: A CRITICAL REVIEW 2001 UPDATE 1 (2001), *available at* http://www.drugpolicy.org/docUploads/2001drugcourts.pdf.

66. Adoption and Safe Families Act of 1997, Pub. L. 105-89, 117 Stat. 2115 (codified in scattered sections of 42 U.S.C.).

67. *Id.*

V. CONCLUSION

There is little remaining argument that addiction creates a myriad of personal, social, and functional problems in a person's life. Methamphetamine in particular has brought with it major revisions in the way drug cases involving children receive response. Community supervisors recognize the increased risks they face due to meth-user paranoia. Additionally, community jails and local governments struggle with the high costs of inmate medical and dental care. Incarceration is without question an expensive option; yet, so is the cost of allowing drug addicts to remain free without proper supervision and family support. Children endangered by adult drug activity are owed an opportunity to have role models who are free from drug-induced paranoia and promote a pro-social view point.

In addition, methamphetamine has brought great devastation to many communities throughout the United States. Through this crisis many eyes have been opened to the specific needs of a growing population of children who are abused by parents whose lives are being controlled by substance abuse. Within the legal system, methamphetamine addicts may be excused for behaviors because of the cognitive impairment noted in so many addicts. Child abuse charges may be dropped because they may seem minor in comparison to other legal issues faced by the defendant. Foster homes may be hard to come by or community legal systems may believe statements that indicate such little hope for recovery from methamphetamine addiction.

Each of these situations likely occurs daily in hundreds of court systems throughout the nation. Drug courts seek to rehabilitate addicts whose addictions have led them to lives of crime, job loss, and family dysfunction. Both groups seek to return to the community a family that finds through sobriety and continuing support, the ability to become a law-abiding citizen.