In This Issue

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The Guardian

The Mission of the NACC is to:

Strengthen the Delivery of Legal Services for Children

Enhance the Quality of Legal Services Affecting Children

Improve Courts and Agencies Serving Children

Advance the Rights and Interests of Children

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Editor: Amanda Donnelly, JD

National Association of Counsel for Children
13123 East 16th Avenue, B390, Aurora, Colorado 80045
Tel: 303-864-5320
advocate@NACCchildlaw.org · www.NACCchildlaw.org

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Comment:
Casting Light into the Darkness

By **Selina Baschiera, J.D.**
NACC Legal Fellow

The issue of child abuse has taken center stage in the world of collegiate athletics recently in the wake of the scandal at Penn State University and now several other higher educational institutions. The recognition of educators and those in positions of power turning a blind eye to the clear and consistent mistreatment of children is an ongoing and tragic problem. Many youth were placed at risk and suffered harm at the hands of former Penn State University defensive line coach Jerry Sandusky. Though the university and legal system have safeguards in place, they are often misapplied, ignored or simply not enough to prevent the damage child abuse causes its victims, their families, and the community at large.

Evidence that outsiders had witnessed Jerry Sandusky's inappropriate behavior towards children first surfaced in 1998. Unfortunately, it wasn't until March of 2011 that the Patriot-News notified the public of grand jury investigations into indecent assault allegations against Sandusky. These allegations involved minor children, particularly from his charity The Second Mile. The story made national headlines on November 5, 2011, when Sandusky was arrested facing 40 criminal counts and released on $100,000 bail. Shortly thereafter, university athletics director Tim Curley and senior vice president for finance and business Gary Schultz stepped down from their positions; they surrendered on charges that they failed to alert police to complaints against Sandusky, drawing attention to the case's impending magnitude. Pennsylvania Attorney General Linda Kelly noted that though university president Graham Spanier may be implicated, famed head coach of the Penn State Nittany Lions Joe Paterno was not a target of the investigations. Paterno's involvement in the scandal became apparent as details surfaced.

Within the grand jury indictment, Sandusky came into contact with the first of eight identified victims through a charity he formed, The Second Mile, in 1994. In 1998, a second victim was reported to university police and an investigation was held. State College Police eavesdropped on two conversations between the victim's mother and Sandusky, during which Sandusky admits showering with other boys. The case was referred to the Pennsylvania Department of Public Welfare's investigator Jerry Lauro. Lauro interviewed Sandusky, who admits that he showered naked with the second victim and touched him inappropriately. Then-Centre County District Attorney Ray Gricar decided there would be no criminal charge filed and the case was closed.

A second opportunity for intervention came in Fall 2000 when a janitor named James Calhoun observed Sandusky in the showers of the Lasch Football Building performing oral sex on a young boy. Calhoun told other janitorial staff and fellow Office of Physical Plant employee Ronald Petrosky. Petrosky also saw Sandusky and the boy while cleaning the showers. Calhoun informs Jay Witherite, his immediate supervisor, who then tells Calhoun to whom he should report the incident. Calhoun never made a report, and this victim's identity remains unknown.

At the center of the public's interest is the most recent incident involving university administration displaying knowledge and concealment of Sandusky's assaults. On March 1, 2002, in the locker room at the Lasch Football Building then-Penn State graduate assistant Mike McQueary witnessed Sandusky having anal intercourse with a child he estimated to be 10 years old. McQueary notified coach Paterno the following day, who then informed university athletic director Curley with a tempered version of the incident. After discussions between several Penn State administrators, university police were never notified. There were future indicative incidents with children and Sandusky that went unreported to university police in 2006 and 2007. One of these victims, also from The Second Mile, finally went to authorities. This victim's allegations formed the foundation of the resulting multi-year grand jury investigation.

Once investigations were underway, Sandusky retired from the charity and went into seclusion. He only granted interviews after additional victims and their families began coming forward to news outlets telling their stories. In an interview with NBC's Bob Costas, Sandusky maintained that he is innocent and denies he is a pedophile. Sandusky admits he has "horsed around" and "done some of the things" in the grand jury report, as if this is supposed to downplay the horrors that his victims suffered at his hands.

Penn State University's board of trustees responded to public outcry by firing Spanier and Paterno, shocking many who held Paterno in high esteem for his professional legacy. Immediately following Paterno's removal there were riots on the Penn State campus, a sad display of misplaced anger and understanding.

Truly these events are tragic, and the victims that suffered in silence for so long at the hands of Sandusky have only begun to tell their story. The fact that their silence has been broken, however, sheds light on an often ignored or overlooked problem that continues to plague society today. After this story showed the country how administrators at Penn State concealed multiple incidents of child abuse, other universities and related institutions came forward to acknowledge that this was not an isolated account by any means.

In late November 2011, The Citadel military college opened an internal investigation into a 2007 abuse complaint about Louis Reville, a former summer camp counselor, in the hopes of avoiding a criminal investigation. The 2007 complaint referenced an incident that occurred in 2002 where victims were lured into Reville's room, shown pornographic videos and masturbated with Reville. Following this position, ReVille went on to work with hundreds of children as a teacher and coach in Charleston area schools, recreation programs and churches. He was arrested in October 2011.

Following these atrocities the NCAA community has emphasized increased awareness of potential abusive situations in the collegiate athletics community. Minnesota University president Eric Kaler noted that the events at Penn State "should make all of us in higher education stop and think about our actions if confronted by similar circumstances." University of Michigan president Mary Sue Coleman wrote an open letter reminding people to alert police if they see a crime in progress, stating "This is a chance to remind one another that a community's values are lived out in the actions of each of us as individuals." On November 17, NCAA president Mark Emmert delivered and publicized a letter to the Penn State President Rodney Erickson that admonished his administration's behavior and reminded all member institutions about their core values and responsibilities in protecting vulnerable children. He stated, "It is critical that each campus and the NCAA as an association re-examine how we constrain or encourage behaviors that lift up young people rather than making them victims."

The most recent collegiate institution to come under fire for not following through with their legal and moral duties involving investigation and notification is Syracuse University. Assistant

basketball coach Bernie Fine has been accused of child sex abuse by three men, including two former ball-boys working under him at Syracuse. Fine was fired on November 27 and denies the allegations. Recorded phone conversations have surfaced indicating that Fine's wife, Laurie, not only knew of the abuse, but potentially carried on a sexual relationship with one of the victims when he was in high school. Basketball coach Jim Boeheim has fallen under criticism for his initial defense of Fine and accusations that those bringing the charges were only interested in money. After several public insensitive statements Boeheim apologized, but the public is calling for severe repercussions against him including resignation.

The NCAA is not the only professional athletic institution directly involved with the case against Fine at Syracuse University. The U.S. Olympic Committee is monitoring the child sex abuse investigation as Boeheim is the top assistant to Mike Kryzewski, coach for the U.S. team playing at the 2012 London Olympic Games. Abuse is not entirely new ground in the Olympic community. In 2010, USA Swimming came under scrutiny for a number of sex-abuse allegations by coaches. Additionally, 1984 Olympic gymnastics coach Don Peters was banned for life by USA Gymnastics after being accused of sexually abusing two athletes in the 1980s.

Media attention and recognition of child abuse as a prevalent and largely ignored social harm does not lessen the fact that it continues to be a social taboo. Victims, adults and children alike, often do not feel comfortable coming forward to report the crimes committed against them, face accusers, or at times even recognize that they are not to blame. As stories such as these make national headlines, forcing the public to face the harms of child abuse head on, perhaps this will change. The social climate is shifting towards public acknowledgement of this social issue as evidenced by the media's recent extensive broadcast of actively hidden abuses within and among religious institutions, specifically the Roman Catholic Church. Historically, these incidents would have continued to proliferate behind closed doors as abusers were transferred and told to keep silent while their victims suffered in a much greater sense of isolation from family and peers.

Even with increasing public support, however, there are still few resources for adults and children looking to deal with emotional repercussions in a positive manner. Much like other forms of abuse formerly considered inappropriate for social discussion, such as rape and spousal abuse, a sense of shame is cast upon victims when the world at large refuses to recognize their suffering. The shame exists even if this apparent disregard is due to inadequate education and resultant uncertainty in assisting with victim recovery.

In the area of child abuse and providing protective assistance for its victims, social change is imminent even if slow-moving. Public admonishments of abusers and support for victims serve to give those quietly suffering strength and courage to come forward. For so long they have been silenced by humanity's blind eye, the time for change has come. ■

Cases

Dependency

Biological Sibling Visitation

State v. Jeffrey H. (In re Meridian H.), 281 Neb. 465

The Nebraska Supreme Court considered whether biological siblings have standing to appeal a placement order regarding another sibling.

The children's mother relinquished her rights to both children and they were adopted by a Minnesota couple Minnesota (the relinquishment took place in Nebraska). Three years later the birth mother had a third child, Meridian. The biological father of all three children passed away nine days before Meridian's birth. When Meridian was only a few months old her birth mother was involved in a motor vehicle accident in Nebraska and was cited for driving under the influence and several other offenses for which she was jailed. Meridian, who was in the vehicle at the time of the accident, was initially placed with a family member. However a few days later Meridian was taken into the custody of the Nebraska Department of Health and Human Services. Meridian was placed in the home of Shane and Brandi K., in Nebraska. Soon after, the Minnesota couple who adopted Meridian's biological siblings indicated they were interested in having Meridian placed with them as well.

Two years later the State filed a motion to terminate the birth mother's rights because of her habitual alcohol and/or drug use and because Meridian had been in out-of-home placement for at least 15 of the last 22 months. The Minnesota couple intervened in the proceeding and filed a motion requesting that Meridian be placed in their home with her biological siblings. The court terminated the birth mother's rights to Meridian but denied the Minnesota couple's motion on placement.

The Court found that the Minnesota couple did not meet the burden of proof in attempting to show that Meridian's current foster care placement was not in her best interest and their home was. It reasoned that Meridian had resided with the same foster family since she was an infant, and it is the only family and home she has ever known. She never resided with her siblings, so there was no common bond formed. The Minnesota couple appealed the order.

On appeal the Supreme Court of Nebraska ruled biological siblings lack standing to appeal placement orders of their other biological siblings. The court found that siblings do not have a recognized constitutionally protected association right after termination or relinquishment of their parents' rights. It noted that the effect of a particular placement on a child's relationship with siblings is one factor to consider in determining whether the placement is in the child's best interests.

Adoption

Adoption of Indian Child

Nielson v. Ketchum, 640 F.3d 1117 (2011)

The 10th Circuit Court of Appeals considered whether the minor child in question came within the ICWA definition of an Indian child through the Cherokee tribe's Citizenship Act.

Within 10 days of giving birth to her son, the biological mother (who was 17 years old at the time) appeared in court, with her mother, to relinquish her rights and approve the baby's adoption by the Ketchum family. At the conclusion of the hearing, the judge recognized the relinquishment and granted the Ketchum's temporary custody of the child. The adoption was finalized in May of 2008. At the time of this hearing the child's maternal grandmother was enrolled in the Cherokee tribe but the birth mother was not, therefore the court did not apply ICWA.

One month after the adoption was finalized the biological mother appealed to the District Court of Utah, arguing that her relinquishment should be reversed because it did not comply with the applicable ICWA law. She specifically cited the provision which does not allow a mother of an Indian child to relinquish her rights for at least 10 days after the birth of the child. The District Court reversed the relinquishment based on a finding that the child was a citizen of the Cherokee tribe under the Citizen Act which

was adopted by the Cherokee tribe. The Citizen Act states "every newborn child who is a Direct Descendant of an Original Enrollee shall be automatically admitted as a citizen of the Cherokee Nation for a period of 240 days following the birth of the child." Through the Citizen Act the District Court found the child was a temporary member of the Cherokee tribe at the time of the original hearing, therefore ICWA should have been applied, but since it was not, the relinquishment should be reversed.

The adopting family appealed the District Court's order, and an appeal is pending before the Supreme Court of Utah. However in April of 2011 the Court of Appeals for the 10th Circuit overruled the District Court's findings. The Court of Appeals largely based its decision on the fact that the Citizenship Act's broad definition of citizenship violated Congressional intent when they drafted ICWA. The Court of Appeals found the type of citizenship provided by the Citizenship Act does not make the child a member of the tribe within ICWA meaning because ICWA does not apply to temporary membership. Further more if the Court recognized the temporary tribal citizenship given the Citizenship Act it would be like authorizing some sort of gamesmanship on the part of a tribe — e.g. to authorize a temporary and nonjurisdictional citizenship upon a nonconsenting person in order to invoke ICWA protections. The Court of Appeals therefore reversed the District Court's finding, holding that the child was not in fact an Indian child at the time of relinquishment, so the relinquishment should be upheld.

Foster/Adoptive Parents' Fundamental Privacy Rights

Ark. Dep't of Human Servs. v. Cole, 2011 Ark. 145 (2011)

The Arkansas Supreme Court affirmed the Circuit Court's ruling that the Arkansas law, Act 1, is unconstitutional as a violation of fundamental privacy rights under the Arkansas Constitution.

The case was brought by Ms. Cole and a group which includes unmarried adults who wish to foster or adopt children in Arkansas, adult parents who wish to direct the adoption of their biological children in the event of their incapacitation or death, and the biological children of those parents. Under Act 1, an individual is prohibited from adopting or serving as a foster parent if that individual is cohabiting with a sexual partner outside of a marriage, and it applies equally to cohabiting opposite-sex and same-sex individuals. Cole and the group laid out 18 complaints in their original petition. In summary arguing that Act 1 deprived a child of the right to access suitable foster homes, it did not serve the children's best interest, it burdened the civil rights and due process of adults who are looking to be foster parents or are parents trying to direct who may adopt their child, and it violated those individuals right to privacy as well.

The Circuit Court ruled that the constitutionality of Act 1 must be analyzed under strict or heightened scrutiny, because it involves an individual's fundamental right to privacy. The Circuit Court found Act 1 was unconstitutional under the Arkansas constitution. The State appealed the decision.

The Arkansas Supreme Court reasoned that the words of Act 1 clearly make an individual's ability to become an adoptive or foster parent conditioned on their sexual relationship, which violates the individual's fundamental right to privacy. The Supreme Count therefore found that the State failed to provide a compelling state interest that could justify prohibiting many, willing, fit, adults from adopting or fostering children, especially given the high number of children in need of permanent homes.

Delinquency

Juvenile Lacks Due Process Right to Jury Trial

People v. Jonathon C.B. (In re Jonathon C.B.), 2011 Ill. LEXIS 1102 (Ill. June 30, 2011)

Two minor male offenders, GW and JB sexually assaulted and attempted to rob an underage girl. The Juvenile Court found the offenders guilty and did not grant them jury trials. JB appealed to the Appellate Court, which affirmed. JB further appealed to the Illinois Supreme Court, arguing that juveniles subject to criminal prosecutions resulting in convictions and sentences of incarceration should be entitled to jury trials under Article 1, Section 8 of the Illinois Constitution.

JB noted that convicted juvenile sex offenders must register under the Illinois Sex Offender Registration Act which potentially restricts the juvenile's movement, schooling and housing. The juvenile must also provide DNA samples for the Illinois State Police's database. In Illinois, juvenile confidentiality rules have recently been amended to permit the general public increased access to the records of juveniles found guilty of serious violent felonies. These felonies include

first degree murder, attempted first degree murder, aggravated criminal sexual assault, and criminal sexual assault.

The Illinois Supreme Court affirmed the decision of the lower courts, siding with precedent in both the Illinois and United States Supreme Courts historically rejecting due process challenges to the lack of jury trials in delinquency proceedings. It noted that rehabilitation remains a more important consideration in the juvenile justice system than the criminal justice system, and that separate treatment of children is worth pursuing. The Illinois Supreme Court stated its reasoning by addressing JB's main arguments.

First, juveniles adjudicated for felony sex offenses do not face harsher sentences than other juvenile offenders, and their indeterminate sentence automatically terminates when the juvenile reaches the age of 21. Secondly, a juvenile adjudicated delinquent for committing a felony offense becomes a ward of the state, and therefore has a diminished expectation of privacy. It noted that although the juvenile sex offender will have to register as a sex offender for life, this is not a punishment but rather a protection for society at large.

Lastly, JB did not meet the threshold requirement for an equal protection claim since he was not subject to the increased penalties of an adult sex offender, nor did JB qualify under the Juvenile Court Act's three specified exceptions allowing for a jury trial. In these exceptional cases, the proceedings carry the threat of severe deprivations of liberty such as mandatory incarceration or the possibility of a sentence extending past the age of 21. JB never faced the possibility of an adult criminal sentence, but rather, he received a sentence that automatically terminated when he reached the age of 21 with no mandatory supervised release term.

Juvenile Life in Prison without Parole

Loggins v. Thomas, 654 F.3d 1204 (2011)

In this case the 11th Circuit Court of Appeals considered whether life in prison without parole for juveniles who are convicted of murder is cruel and unusual punishment.

The defendant in this case was 17 years old at the time he brutally murdered and mutilated a woman. The grand jury found him guilty on two counts of capital murder. He was sentenced to death, however because he was a minor at the time of the crime, the death sentence was set aside and he was re-sentenced to life in prison without parole.

The defendant unsuccessfully filed several appeals regarding his sentencing, based on various arguments. Following *Roper v. Simmons* case, 543 U.S. 551. (2005) the defendant filed an appeal arguing that his life sentence without parole should be reversed because the *Roper* case held that juveniles are incapable of forming the requisite intent for capital murder under Alabama law.

The Federal District Court agreed to hear the case and ultimately upheld the defendant's original sentence of life without parole. The Federal District Court found that neither *Roper* nor *Graham v. Florida* held or suggested that it was unconstitutional to sentence juveniles convicted of murder to life without parole. It reasoned that *Roper* was limited to the constitutionality of imposing a death sentence on a juvenile and *Graham* was limited to the constitutionality of sentencing juveniles to life without parole for committing crimes other than homicide. The Court found that these decisions are clearly established and it noted a national trend toward allowing this sentence when juveniles are convicted of homicide; 40 jurisdictions permit it. In its view the sentence provides a strong deterrent effect. Further, Alabama statute specifically provides life in prison without parole as the sentence for juveniles convicted of murder. ■

Amicus Curiae

The NACC **Amicus Curiae** Program promotes the legal interests of children and families through the filing of **amicus curiae** (friend of the court) briefs in state and federal appellate courts. The NACC files its own briefs and participates as co-**amici** in cases of particular importance to the development of child welfare and juvenile law. In recent years, the NACC has filed briefs in numerous state appellate courts, federal courts of appeal and The Supreme Court of the United States. To view briefs or submit a request for the NACC to participate as **Amicus Curiae** in a case, visit www.NACCchildlaw.org and click the "Amicus Curiae" tab.

M.D. v. Perry,
Case No. 11-40789 (5th Circuit)

In the case of MD v. Perry, the State of Texas (State) appeals the decision of the U.S. District Court for the Southern District of Texas (Court) approving class certification for the Plaintiffs, specified children in Texas' foster care system. This decision certified over 12,000 children in Texas's Permanent Managing Conservatorship (PMC), alleging a general failure of the system and its placement procedures for all children now in and who will come into the PMC of Texas' Department of Family and Protective Services (DPMC). The State appealed, seeking to decertify the class under application of Federal Rule of Civil Procedure 23(b)(2) (Rule 23(b)(2)) and the recent decision of *Wal-mart v. Dukes*, 131 S. Ct. 2541 (2011).

NACC joined eight professors from law schools in the 5th Circuit in an amicus curiae brief in support of Apellees. The brief, prepared by James Ahlers, Perkins Cole, Douglas Gray, Morris, Downing & Sherred, LLP and filed by Kurt Kuhn, argued in support of the Texas District Court's decision approving class-action qualification for children in the Texas' foster care system. The brief reviews Rule 23(b)(2)'s historic application in allowing courts to address system-wide abuses protects classes of individuals, such as those in state custody, who cannot effectively defend their own rights as individuals. It seeks to refute the State's contention that this case is a novel use of federal law and stresses that child welfare reform under Rule 23 has achieved critical improvements in the treatment of children in state custody. Amici urge the Court to consider the many concrete and substantial improvements that have historically been achieved as a direct result of child welfare class actions, noting that class action lawsuits are one of the most powerful tools in reform efforts available to children in state custody.

In re Emoni W. & Marlon W. (CT S.C. 18841)

The Appellate Court of Connecticut previously considered whether applying the Interstate Compact on the Placement of Children ("ICPC") to placement made to out of state noncustodial parents is a violation of that parent's constitutional rights.

The children came into the Connecticut commissioner of children and families' care after their mother was arrested for possession of drugs with intent to sell. The children's noncustodial father petitioned the court to grant him temporary custody. The children had previously spent school holidays with their father, who lived in Pennsylvania. A preliminary hearing was held concerning the father's orders for temporary custody. At this hearing, the father argued that the ICPC, did not apply to him as a noncustodial parent and requested that the court allow him to take custody of the children. The court ruled the ICPC does apply to noncustodial parents, and authorized placement of the children with their father in Pennsylvania on the condition that the court order six months of protective supervision. Both the children and the father appealed this decision.

On the original appeal the court ruled the father's appeal moot because at the time of the hearing the children were in his custody and the period of protective supervision had expired. However after that ruling the appellate court requested that the father file a supplemental

brief. The supplemental brief urged the appellate court to review the issue because it was capable of repetition. The appellate court agreed.

NACC joined eitght amici in an amicus curiae brief arguing against applying the ICPC to parents on the basis that it violates both parents' and children's substantive and procedural due process rights.

In re Christian M. & Alexander M., Case No. 2011-0647

On July 1, 2011, the New Hampshire legislature eliminated funding for court-appointed lawyers to represent indigent parents in child welfare cases. In doing so, New Hampshire became the first state in the country to strip parents of the right to counsel.

The NACC filed an amicus curiae brief asserting that providing parents with counsel throughout a child protection proceeding is necessary to prevent an erroneous deprivation of a liberty interest. Child welfare proceedings affect one of the oldest and most fundamental rights protected by the Constitution — that of parents to direct the care, custody and control of their children. The right to counsel is an important procedural safeguard aimed at ensuring that courts reach accurate decisions involving the temporary or permanent placement of a child into foster care. Additionally errors made in the initial custody deprivation can affect subsequent decisions through the case, including the final termination of parental rights decision. Finally parents' counsel plays a crucial role in reducing errors in child welfare cases. In situations where temporary removal occurs, advocacy by parents' counsel can expedite the safe reunification of the family by facilitating the prompt delivery of appropriate services to the family, advocating for extensive visitation between the parent and the child, and counseling parents about the ramifications of the choices they must make, which may increase compliance with court directives. ■

You Are Part of a National Network of Advocates

NACC Amicus Curiae Activity is made possible by the advocacy and contribution of NACC members like you. We are appreciative of attorney Don Hodgdon, CWLS for his tireless advocacy on behalf of parents in Connecticut. Attorney Hodgdon brought the *Emoni* case to the Connecticut Supreme Court because of the constitutional implications of applying the Interstate Compact on the Placement of Children to non-custodial parents residing in different states. NACC member Josh-Gupta Kagan from Washington University College of Law drafted the brief and organized co-amici.

In the C.M. v. A.M. case Professor Vivek Sankaran from the University of Michigan drafted a compelling brief on the importance of right to counsel for parents in dependency proceedings. The brief was filed in the New Hampshire Supreme Court by attorney Tracy Bernson, CWLS.

In addition to the value of filing briefs, NACC amicus curiae briefs are available to members as a resource on issues and arguments at: www.naccchildlaw.org/?page=Amicus_Curiae. ■

Policy

HHS Releases 2010 Child Abuse and Neglect Report Data

The U.S. Department of Health and Human Services released, *Child Maltreatment 2010*. The Report indicates a continued decline in child maltreatment and provides data on rates of victimization among age groups, gender, and ethnicity.

Senate to Hear Testimony on Child Abuse Reporting

Sen. Bob Casey (D-PA) has introduced the Speak Up Act – S. 1877 to expand most state child abuse reporting laws to mandate that all adults have the responsibility to report known or suspected incidents of child abuse or neglect. Eighteen states already include such a provision in their reporting statutes. Under Casey's bill, the universal mandate for reporting would be a requirement for receiving Child Abuse Prevention and Treatment Act (CAPTA) basic state grants and community-based prevention grants to states." NACC is aware that a number of states are interested in making changes to state laws.

Congressional Caucus on Foster Care

The Congressional Caucus on Foster Care has launched a website and started its work to protect and ***promote*** the welfare of all children in foster care and those who have "aged out" of the system. Members are planning a Listening Tour in 2012 and currently soliciting ideas of places to go and people to meet in order to better understand the child welfare system's current issues and needs.

For additional information or to provide suggestions visit: http://fosteryouthcaucus-karenbass.house.gov/ .

Action Calls to Members in 2012

NACC will call upon our members to contact Congress as needed to address child welfare related issues. Together we have the power to influence necessary systems' changes. ■

NACC Member Feature: **Don Hodgdon, CWLS**

Don Hodgdon began his career by serving in the United States Marine Corps, where he received the US Marine Corps Good Conduct Medal. He then became a commissioned officer in the US Navy and received numerous awards and medals recognizing his achievements. Mr. Hodgdon graduated from Quinnipiac University School of Law in May 2004, where he also obtained a certification in mediation. Mr. Hodgdon is admitted to practice in Connecticut, Massachusetts, the US District Courts of Connecticut and Massachusetts, the US Court of Appeals 2nd Circuit, the US Court of Appeals 1st Circuit, the US Military Court of Appeals, and the US Supreme Court.

Since 2006 Mr. Hodgdon has been in solo practice focusing almost exclusively on civil litigation and criminal defense; with about 80% of his work involving juvenile law matters. In 2010, he became a certified Child Welfare Law Specialists.

Mr. Hodgdon's colleagues have said his "representation of minor children, both as an attorney and GAL, is nothing short of outstanding. He goes that 'extra mile' and does what is required in making sure necessary services are obtained for his clients/wards and zealously represents their interest throughout the judicial process." They have also complimented Mr. Hodgdon's work by saying, "He puts his heart into each case. He is always fully prepared. If I had a legal matter that I was involved in I would hire him as my attorney."

Connecticut, like many other parts of the country, recently slashed funding for legal representation of children. We are inspired by advocates like Mr. Hodgdon whose skill, knowledge, and honest concern for cases involving juvenile matters represent and fear the impact of state budget cuts on their ability to continue in this area of the law. ■

News

Submit children's law news and job openings to: **advocate@NACCchildlaw.org** and visit the NACC website for the latest Children's Law News, Case Updates and more! **www.NACCchildlaw.org**

New Study: Doctors Deficient In Reporting Child Abuse

by Tom Birch, National Child Abuse Coalition — Update, *Washington Memorandum*, Vol. 31, No. 19, Nov. 10, 2011)

Pediatricians and other primary care providers are good at identifying physical injuries in their young patients that might be the result of child abuse, but they are not as good at judging when to report those cases to child protective services, according to a new study, *To Report or Not to Report: Examination of the Initial Primary Care Management of Suspicious Childhood Injuries*, published in the November issue of *Academic Pediatrics*.

The study, conducted by researchers led by Dr. Robert Sege from Boston University School of Medicine (BUSM) and Boston Medical Center (BMC), found that primary care providers fail to report a substantial number of cases of child abuse. Using a sample of injuries drawn from previous research on reporting of child maltreatment (the Child Abuse Recognition and Evaluation Study: CARES), the evaluation of cases made by primary care providers (PCP) in those 111 injury visits (with ratings including no suspicion of abuse, suspicion but not reported, and reported suspicion), were then assessed by expert reviewers to validate the primary care provider's initial decision. Primary health care providers and experts agreed about the suspicion of abuse in 81 percent of the physical injury cases and primary health care providers did not report 21 percent of injuries that experts would have reported.

The expert reviewers found that reporting was warranted in 13 of the 63 cases doctors chose not to report to authorities. Most of those cases involved leg fractures or bruises to the face or ear, and in six cases the physicians themselves had identified a high likelihood of abuse.

Sege, professor of pediatrics at Boston University School of Medicine and medical director of the child protection team at Boston Medical Center, said most primary care providers are trained in how to identify child abuse injuries. "We need to go the next step and talk to them about why they need to report, how they report, what information they need to provide," he said.

This study reveals that primary care providers should pay more attention to the bruises or scratches on a child and see if they are consistent, which would make them suspicious. This study opens up several opportunities for future improvement in the training of physicians as well as the diagnosis and management of child physical abuse. "To become more certain of their suspicions, PCPs need better education about the recognition of injuries that are suspicious for child abuse, particularly bruises and fractures, and the role of state CPS agencies in investigating the child's circumstances," added Sege.

In the earlier CARES report — from which data collected between 2002 and 2005 were drawn for the new study — hundreds of health care providers were asked to each collect information about 40 children seen consecutively in their practice for injuries and record whether they suspected child abuse and reported the cases to child protective services. That study found that 27 percent of doctors did not report those injuries they had deemed to be "likely" or "very likely" caused by abuse.

After more than 30 years as Director of the National Child Abuse Coalition Tom Birch is retiring. Mr. Birch has a done a phenomenal job of bringing together advocacy organizations from across the country and building our presence as a national coalition of organizations with shared values. ■

NACC News

New Monthly e-Guardian! In an effort to provide members with more timely information, the NACC is pleased to announce our new monthly **e-Guardian**. This is the last issue of the quarterly **Guardian**. The monthly **e-Guardian** will include cases, policy updates, practice tips and the latest news and resources in child welfare law. In 2012 expect to see feature articles on interesting and important issues relevant to your work.

Is there at topic or issue you would like to see in the **e-Guardian**? Let us know by emailing: advocate@NACCchildlaw.org.

NACC News

The QIC-ChildRep will be Available Again in 2012

Starting January 1 the NACC will begin accepting applications for certification and the fee waiver. The waiver will be applied to the $300 Application Fee on a first-come first-served basis to the first 200 applications submitted to the NACC. To be eligible for the Waiver attorneys must submit with their application a commitment to sit for the exam if eligible. Attorneys who receive the QIC ChildRep Waiver will be responsible for the Examination Fee. Contact the NACC to obtain the Certification Standards and an electronic application or visit naccchildlaw.org/?page=Certification for additional information.

Membership Drive

We are on a mission to grow our membership, and we need your help. The greater our numbers, the greater our capacity to make an impact for those who have no power or voice. By participating in our **Member-Get-Three-Members** and our **Give a Gift of Membership** campaigns, you help us gain the power in numbers we need to accomplish our goals. Thank you and happy new year. ■

Jobs

Congressional Adoption Institute Internship Program

The Foster Youth Internship Program of the Congressional Coalition on Adoption Institute (CCAI) is an internship program for young adults who spent at least 24 consecutive months in foster care at any point in their life and who have completed at least 4 semesters of higher education by May 29, 2012. CCAI places these interns in Congressional offices in Washington, DC for a 9-week internship program.

The goal of the program is to educate policymakers about the experiences of foster youth in an effort to inspire legislative improvements to the foster care system. Housing, travel, and a weekly stipend are provided by CCAI. Applications are accepted now until January 6, 2012.

The program will run May 29-July 28, 2012. For more information and to apply, visit www.ccainstitute.org/fyiapply or contact Emily Collins at Emily@ccainstitute.org or 202-544-8500. ■

Publications and Resources

Reports

ABA Practice & Policy Brief on Psychotropic Medication and Children in Foster Care

Psychotropic Medication and Children in Foster Care: Tips for Advocates and Judges by JoAnne Solchany, PhD, ARNP. The complete brief can be found at: http://www.americanbar.org/content/dam/aba/administrative/child_law/PsychMed.authcheckdam.pdf.

New Study Released "Youth Adult Outcomes of Youth Exiting Dependent or Delinquent Care in Los Angeles County"

This comprehensive study investigates the adult outcomes of "cross-over" youth in Los Angeles County, available at: http://www.naccchildlaw.org/resource/resmgr/docs/young_adult_outcomes_of_yout.pdf.

Doorways to Delinquency

This report highlights findings from a study conducted by NCJJ that examines the prevalence of multi-system involvement among youth referred to the King County Juvenile Court on delinquency matters in 2006. Read the report in its' entirety at: http://www.ncjj.org/about/news/11-10-20/Press_Release_Doorways_to_Delinquency.aspx.

Government Accountability Office Report on Overmedication of Foster Children

Available at: http://www.gao.gov/products/GAO-12-270T.

Books

Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases (2nd ed.)

NACC members are entitled to a 20% discount, (enter the code NACC in the shopping cart when you checkout).

To learn more and/or order the book, please visit: www.bradfordpublishing.com.

Tattoos on the Heart: The Power of Boundless Compassion, by Fr. Greg Boyle.

How do you fight despair and learn to meet the world with a loving heart? How do you overcome shame? Stay faithful in spite of failure? No matter where people live or what their circumstances may be, everyone needs boundless, restorative love. Gorgeous and uplifting, Tattoos on the Heart amply demonstrates the impact unconditional love can have on your life.

All Alone in the World: Children of the Incarcerated, by Nell Bernstein.

In this "moving condemnation of the U.S. penal system and its effect on families" (Parents' Press), award winning journalist Nell Bernstein takes an intimate look at parents and children — over two million of them — torn apart by our current incarceration policies. Described as "meticulously reported and sensitively written" by Salon, the book is "brimming with compelling case studies… and recommendations for change" (*Orlando Sentinel*); *Our Weekly Los Angeles* calls it "a must-read for lawmakers as well as for lawbreakers."

DVD

"From Place to Place," directed by Paige Williams

The feature documentary From Place to Place tells the story of the invisible children who grow up in America's foster care system. The power of their voice sets in motion a chain of events that culminates with The Senate Caucus on Foster Youth announcing a Call to Action for comprehensive reform. http://fromplacetoplacemovie.com/index.html.

Radio

American Radio Works Presents: "Wanted: Parents" by Catherine Winter and Ellen Guettler

American Radio Works reports on efforts to persuade more families to adopt teenagers. http://americanradioworks.publicradio.org/features/fostercare/. ■

Thank You

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