

Effective & Ethical Representation of Very Young Children in Child Abuse & Neglect Cases

Candice L. Maze, JD

Lexington, NE
April 27, 2011

Overview

- Practice Skills
- Self-Assessments
- Theory to Practice Experiences
 - Case Scenario
 - Small and Large Group Discussion
 - Mock Home Visit & Case Conference
 - Idea and Information Exchange
- Evaluation

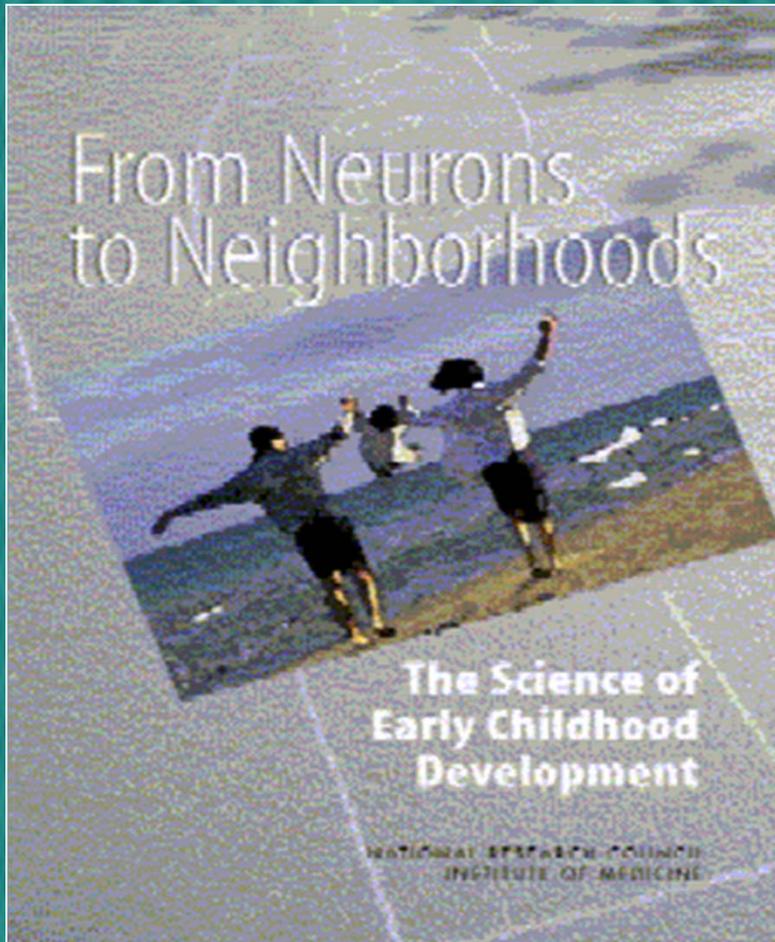
Working Definitions

- **Infants** - children from birth to one year old
- **Toddlers** - children between the ages of one and three years old
- **Babies** - infants and toddlers
- **Preschoolers** - four and five year olds
- **Very Young Children** - children birth to five years old
- **Substitute caregivers** - licensed foster parents and relative and non-relative caregivers

“What happens during the first months and years of life matters a lot, not because this period of development provides an indelible blueprint for adult well-being, but because it sets either a sturdy or fragile stage for what follows.”

Shonkoff, Jack P. and Deborah A. Phillips, eds. From Neurons to Neighborhoods: The Science of Early Childhood Development. National Research Council and Institute of Medicine Committee on Integrating the Science of Early Childhood Development. Washington, D.C.: National Academy Press, 2000, 5.

The Science of Early Childhood Development



- From birth to five years old, children develop the foundation for their future linguistic, cognitive, emotional, social, regulatory and moral capabilities.
- Early experiences and relationships significantly impact a child's brain development.
- Nurturing and dependable relationships are key to healthy development.

Babies are Most At Risk



- Have highest victimization rates - the age group that experiences the most abuse and neglect is under 1 yr old.
- Most likely to experience a recurrence of maltreatment.
- Most likely to die from the abuse and neglect they experience.

Largest Group in Care

- In 2008 - 33% of all children with a substantiated case of maltreatment were under 4 years of age.
- Babies under three months of age are the most likely to enter care.
- More than 1/3 of infants enter care from the hospital.

Babies have Different Experiences

- Remain in placement nearly twice as long as older children
- Lower chance for family reunification than older children
- Twice as likely as older children to be adopted
- More likely to be neglected and abused while in care than older children, especially babies who enter care between birth and three months of age
- Nearly 80% of children under 4 experienced neglect
- 33% re-enter

Physical Health of Babies in Care

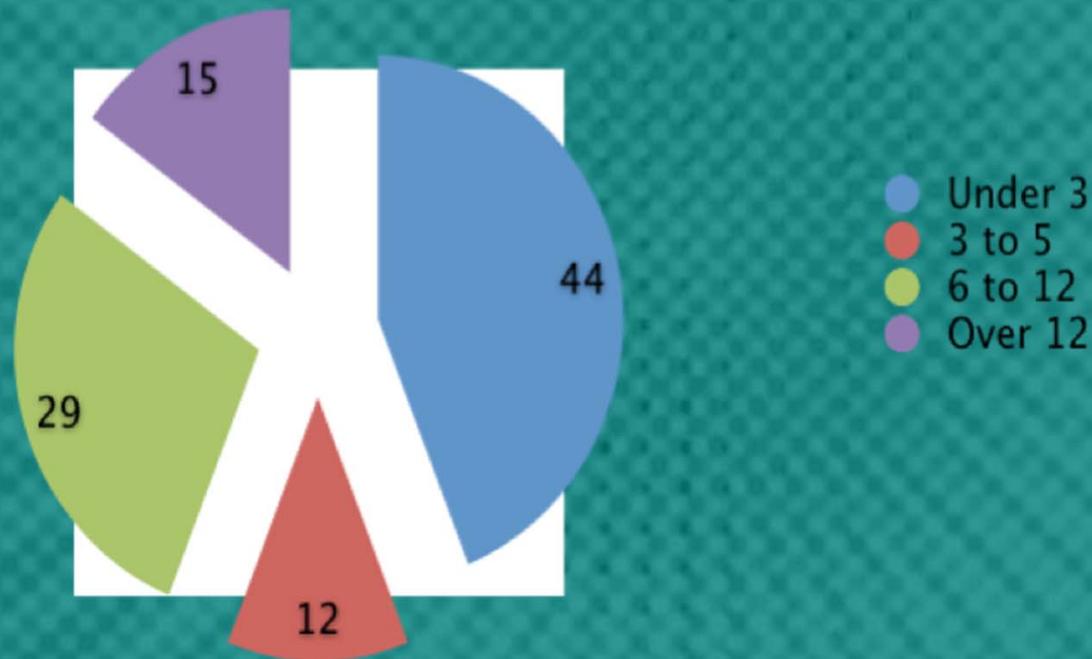
- Nearly 40% are born low birthweight and/or premature
- More than 50% have a chronic medical condition
- At least 50% have been prenatally exposed to substance abuse
- 20%-40% have growth failures
- More than 50% have developmental delays

Mental Health Needs of Very Young Children Investigated for Maltreatment

- 41.8% of toddlers and 68.1% of preschoolers have emotional or behavioral problems
- 75% do not receive timely intervention or treatment
- 30% of infants show behavioral problems by the time of school entry

Very Young Children in Nebraska

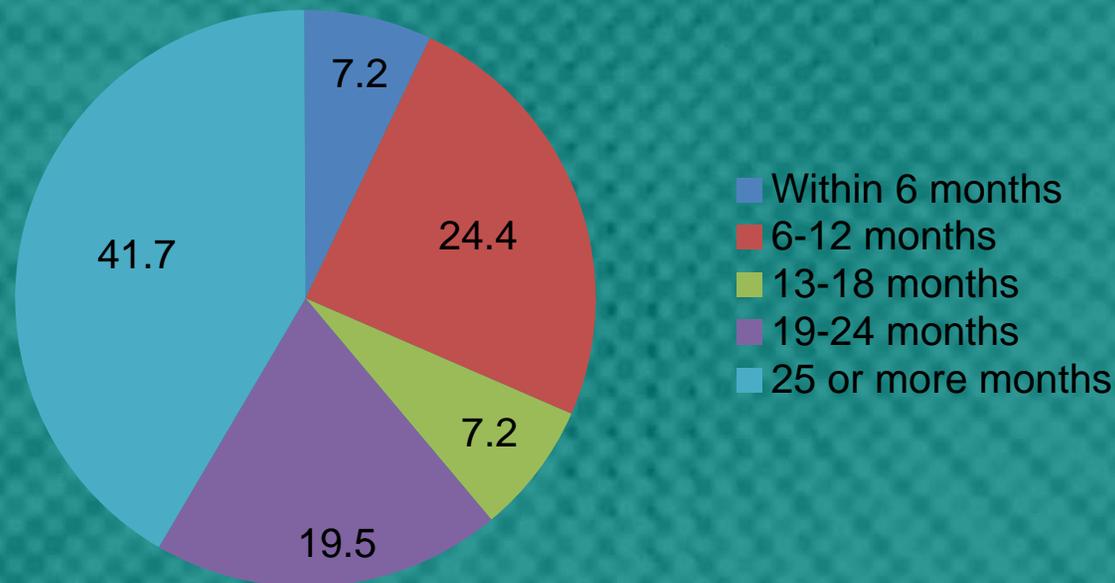
Ages of 3a cases (at removal)



Source: Court data for Scottsbluff, Box Butte, Sheridan, Dawes, Sioux and Morrill

Removal to Permanency in Nebraska for Children Birth to 5

N = 41
Median = 22 mo



Source: Court data for Scottsbluff, Box Butte, Sheridan, Dawes, Sioux and Morrill

Making the Case for Babies

- Potential to positively influence developmental outcomes during the first five years of life.
- Enormous return on 'investment' - children prepared to learn, more likely to succeed in life and to develop healthy relationships and behaviors.
- Healthy children = healthy adults = breaking the cycle

Effective Advocacy 'Hallmarks'

Child-Centered

Research-Informed

Holistic

Permanency-Driven



Hallmarks

- Interdependent
- Equally important
- Framework/practice guide for advocacy
- Promote ethical representation
- Elevate the legal and best interests of very young children

Child-Centered Advocacy

- All language and actions center on child's perspective
- See the world through the baby's eyes
- Baby's needs must drive the process, not the adults' needs



Learn the Child's History

- Prenatal care
- Medical and dental care/history
- Relationships with key caregivers
- Early caregivers (parental, relative, child care)
- Familiar comforting items

Learn the Child's History *(continued)*

- Talk to caregivers, doctors, siblings, relatives, parents
- Review all records
- Request additional records when gaps
- Put together a timeline of the impactful (+/-) events in the child's life

Get to Know Your Client

- A child's attorney CAN build a relationship with a very young child
- Even pre-verbal children can 'tell' you how they are doing
- Observe behaviors; consult professionals to interpret them
- Regular visits - monthly is ideal
- Engage in developmentally appropriate activities to build the attorney-client relationship (p. 11-13)

Observe Child's Interactions with Substitute Caregivers

- Does the baby smile and gurgle at her caregiver?
- Does the toddler use her caregiver as a point of reference?
- Does the presechooler talk with her caregiver and show off new skills?

Get to Know the Child's Caregivers



- Demonstrate empathy, flexibility and adaptability
- Can handle dysregulated infants
- Have positive responses when baby expresses need
- Willing to play with and follow the baby's non-verbal cues
- Support relationships with biological parents if goal is reunification

Jones Harden, Brenda. *Infants in the Child Welfare System: A Developmental Framework for Policy & Practice*. Washington, DC: Zero to Three, 2007.

Be Familiar with the Child's Environments

- Very young child's brain development is impacted by environment
- Healthy, secure and safe environment is essential
- Babies can't describe the environment - advocate must regularly visit and observe

Home Environment

- Safe for developmental age? (outlet covers, safety locks)
- Meets physical needs? (baby food, crib)
- Meets social/emotional needs? (books, developmentally appropriate toys)

Early Care & Education Setting



- Is the child enrolled in a high-quality early childhood program?
- Is the early childhood program knowledgeable about the needs of children in the child welfare system?
- Can program support special needs?

The Impact of Quality Child Care on Young Children in the CWS

Study by the University of Miami Linda Ray Intervention Center

- Non-dependency & Dependency Pair with no significant differences in demo
- Measured quality of CC and development across multiple domains every 6 mo for 2 yrs

Study Findings for CWS kids

- Quality of CC predictor of language and communication and cognition
- Number of books in the home had a significant impact on developmental outcomes
- Number of placement changes in CWS significant and negative predictor of total scores and communication

Assessing Quality Child Care

- Accreditation is a component
- Minimum:
 - Teachers get down to the child's level
 - No yelling
 - Appropriate, non shaming consequences
 - Developmentally appropriate toys, books & materials
 - Safe, appropriate environment
 - Changing/diapering area and age-appropriate bathroom

See www.rightchoiceforkids.org

Take a 'Developmental Approach'

- Learn Early Developmental Milestones
- Baby's developmental needs guide analysis
- Arguments and positions centered around impact on current and future development

Understand 'Health' as an Interconnected Concept

1. Physical Health
2. Developmental Health
3. Mental Health

Osofsky, Maze, Lederman, Grace and Dicker. "Questions Every Judge and Lawyer Should Ask about Infants and Toddlers in the Child Welfare System."

National Council of Juvenile & Family Court Judges, 2002.

Physical Health

- Has the child received a comprehensive health assessment since entering foster care?
- Are the child's immunizations complete and up-to-date for his or her age?
- Has the child received a hearing and vision screen?
- Has the child received regular dental services?
- Has the child been screened for communicable diseases?
- Does the child have a medical home - to ensure coordinated, comprehensive, continuous health care?

Developmental Health



- Has the child received a developmental evaluation by a provider with experience in child development?
- Are the child and his or her family receiving the necessary early intervention services (e.g. speech therapy, occupational therapy, educational interventions, family support)?

Mental Health

- Has the child received a mental health screening, assessment or evaluation?
- Is the child receiving necessary infant mental health services (e.g., Child-Parent Psychotherapy)



Ensure 'Consultation' by the Judge

- More than just “paper children”
- Opportunity for judge to view for himself or herself how the child is doing
- Verbal toddlers and preschoolers can interact with the judge
- Keeps everyone focused on the child
- Ensure adequate protections (in chambers or part of hearing)

ABA Standard D-5: Child at Hearing

- Instructs attorneys to ensure children are present and properly supervised
- Underscores that child is a real party in interest
- Benefits from seeing the courtroom and meeting the judge
- Excused only professional confirms traumatic for child

Permanency-Driven Advocacy

Promote permanency from day one

- Concurrent planning
- Continuously address permanency
- Identify & engage fathers & paternal relatives
- Co-parenting

Maintain primary attachments

- Visitation/Family Time
- Sibling connection
- Transition planning
- First placement = last placement
- Postpermanency arrangements

Concurrent Case Planning

- Encouraged by ASFA
- Can increase timely permanency
- Resource parents can serve as role models for biological parents
- Adoptive parent in the wings
- Can reduce litigation and promote cooperation
- MUST have the right foster parents



Visitation & Family Time

- “Heart of permanency planning”
- Research shows that regular, frequent visitation:
 - Increases likelihood of successful reunification
 - Reduces time in care
 - Promotes health attachment
 - Reduces negative effects of separation

Smariga, Margaret. Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know. ABA Center on Children and the Law & Zero to Three. 2007.

Criteria for Visitation with Very Young Children

- Frequent (multiple times weekly)
- Duration allows a range of experiences
- Connected to daily activities
- Least restrictive, most home-like setting
- Conducive to meaningful interaction

Visitation/Family Time Plan

- Details specified in the court order
- Works best for the baby - not for the convenience of the adults
- Regular court review and revision
- Promotes baby's connections to his or her siblings



Identifying and Engaging Fathers

If non-custodial father is highly involved:

- More reunification, less adoptions
- Substantially lower likelihood of subsequent maltreatment
- Children exit FC faster

Even somewhat consistent contact reduces FC entry

Engaging Fathers

- Ask about fathers and paternal relatives
- Placement or other resource
- Ensure inclusion in case planning
- Ensure services provided
- Connect with incarcerated fathers to seek out relatives and ensure services are being provided
- Examine personal beliefs about fathers as primary caregivers

Fostering Sibling Connections

- Placement together
- Regular visitation
- Post-permanency contact

Advocate for Effective Services

- Ask critical questions about program effectiveness
- Ineffective services can be more harmful than helpful for very young children
- Reunification services that are ineffective can put a very young child at risk

Evidence-Based Programs

- Research shows positive results
- Attributed to the program itself
- Peer-reviewed
- Endorsed by a federal agency or respected research institution
- No EBPs - Advocate for them!

The Child's Position

- Based on objective Criteria
- Attorney personal experiences and preferences excluded
- Work towards consensus without losing sight of baby's needs
- OWN position

Objective Criteria

Determination of child's interests should be based on objective criteria (ABA Standard B-5)

- Your factual observations
- Your observations interpreted by professionals
- What young children do and say
- What their caregivers do and say

Making Changes



- What changes can you make by next Tuesday - individually or as a group - to improve outcomes for very young children in your community?
- What will take more time?