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## Introduction to the Symposium

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# REFORMING CHILD PROTECTION LAW: A PUBLIC HEALTH APPROACH

## INTRODUCTION

*Marsha Garrison\* and Cynthia Godsoe†*

Over the past thirty years, a number of state and federal initiatives have aimed to improve the performance of the child protection system, but the problems that reformers aimed to cure have only increased. The rate of child maltreatment remains unacceptably high. Neither intensive preplacement services nor in-placement reunification efforts are adequate to provide safe homes for the victims of maltreatment. Children who enter foster care are at serious risk of remaining there, in unstable placements, without any real hope of long-term family reunification or adoption. The failures of the child protection system cause both immediate and long-term harm to the children whom the system aims to protect. The manifestations of this harm—high rates of physical and mental illness, conduct and behavioral disorders, educational disadvantage, reduced work prospects, and problems in adult family functioning—are varied and may persist for decades after a child leaves care. The public costs associated with these harms are staggering.

During the same time period, evidence has accumulated showing both that child maltreatment is less a matter of parental malice than it is of parental incapacity and that incapacity is strongly linked to identifiable risk factors such as poverty and stress. The U.S. Centers for Disease Control and Prevention thus has defined child maltreatment as an important public health

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problem and has an ongoing program of epidemiological research underway.

Thus far, the child protection system has not responded to this new, epidemiological understanding of maltreatment. It continues to rely on “band-aid” solutions initiated when a family is already in crisis. It has failed to develop evidence-based treatments or even standardized diagnostic procedures. It has woefully neglected prevention, the key to most successful public health campaigns. Equally important, both federal law and local practice reflect an “acute care” treatment paradigm that aims at rapid cure and exit, while all the evidence suggests that child maltreatment—for both the maltreating parent and the victimized child—is a chronic condition that requires long-term support and services.

This symposium, *Reforming Child Protection Law: A Public Health Approach*, brought together a distinguished interdisciplinary group of legal, medical, and social-science experts on child protection to chart the steps that policymakers need to undertake. The first panel, moderated by Professor Karen Porter, Executive Director of the Brooklyn Law School Center for Health, Science and Public Policy, discussed the role of risk assessment in child protection. The panelists, Professor Marsha Garrison (Brooklyn Law School), Professor Clare Huntington (Fordham Law School), and Professor Sheila Smith (Columbia University’s Mailman School of Public Health), discussed various risk factors associated with child maltreatment. Their papers are all included in this volume.

Brooklyn Law School Professor Tara Urs moderated the second panel, which focused on maltreatment prevention. Professor David Olds, director of the University of Colorado Prevention Research Center for Family and Child Health, described the Nurse Family Partnership Program that he founded, which is one of the few maltreatment prevention programs that has consistently shown success. Professor Fred Wulczyn (University of Chicago’s Chapin Hall School of Social Work) presented data showing that the system in which a child protection case was processed was a more powerful predictor of family reunification than the characteristics of the child and family. Professor Cynthia Godsoe (Brooklyn Law School),

whose paper is included in this volume, discussed the procedural justice potential of “differential response,” a new alternative to adversarial child protection investigation and intervention.

A third panel addressed the systemic strengths and weaknesses of current child protection systems and the various ways they could be improved. Former New York City Administration for Children’s Services (“ACS”) Commissioner John Mattingly identified problems inherent in child welfare systems and discussed the need for strong and consistent internal leadership to achieve significant, systemic change. Professor Martin Guggenheim, who heads the New York University Law School Family Defense Clinic, argued that child welfare agencies should abandon their current methods, focused on blaming and adversarial case processing, in favor of providing voluntary services to at-risk families. Professor Jonathan Todres (Georgia State University Law School) discussed child trafficking prevention as a model for maltreatment prevention. His paper also appears in this volume. The symposium concluded with a roundtable discussion centered on appropriate state responses to a hypothetical case study.

The Honorable Edwina Richardson-Mendelson, Administrative Judge for the Family Court of the City of New York, also delivered an impassioned address about the proper role of the courts in child protection proceedings. Reflecting upon her own observations from the bench, Judge Richardson-Mendelson commented on the difficulties of identifying and assessing child abuse prior to trial and urged that prevention was key to reducing maltreatment. “At-risk families should be identified earlier on, children of immigrant families cannot be ignored, and comprehensive services in New York should be more readily available,” she concluded. The full text of Judge Richardson-Mendelson’s remarks is included in this volume, as is an article by Professor Susan Mangold, Dr. Catherine Cerulli, Gregory Kapcar, Crystal Ward Allen, Kim Kaukeinen, and Professor Hua He that describes preliminary findings from their research investigating the impact of funding sources and requirements on the mental health of foster children in Ohio.