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Falling Between The Cracks: Understanding Why States Fail In Protecting Our Children From Crime

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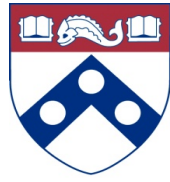
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**Falling Between The Cracks: Understanding
Why States Fail In Protecting Our Children
From Crime¹**

Michal Gilad²

¹ Forthcoming in Michael Gilad, *Falling Between the Cracks: Understanding Why States Fail in Protecting Our Children from Crime*, 2019 U. ILL. L. REV. (forthcoming May 2019). Some of the materials in this paper are also included in Michal Gilad et al., *The Snowball Effect of Crime & Violence: Measuring the Triple-C Impact*, 46 FORDHAM URB. L.J. (forthcoming 2018).

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Abstract

The article is the first to take an inclusive look at the monumental problem of crime exposure during childhood, which is estimated to be one of the most damaging and costly public health and public safety problem in our society today. We conducted a unique 50-state survey, examining the state-level statutory responses to affected children. The survey uncovered staggering system failures, bureaucratic labyrinth, access to information challenges, and lack of coordination among governing agencies and organizations. Consequently, despite statutory eligibility for therapeutic services and compensation, the majority of children suffering the dire consequences of crime exposure are never identified. Even when identified, only a miniscule minority ever receive services or treatment to facilitate recovery.

Informed by scientific findings, the article also takes on the challenging task of 'naming' this complex problem by coining the term Comprehensive Childhood Crime Impact or in short the Triple-C Impact. The term embodies the full effect of direct and indirect crime exposure on children due to their unique developmental characteristics, and the mammoth spillover effect on our society as a whole.

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Introduction

Since the early 80's, every first-year law student in the U.S. has been inculcated with the conceptual process of Naming, Blaming and Claiming.³ They are taught that the first and most fundamental step in addressing a problem is identifying an experience as injurious and naming it as such. With an entire generation of legal minds that were trained to “name”, is it still possible that one of the most injurious and costly problems in our society has yet to be properly named?

Over the past two decades, a large volume of empirical evidence has accumulated demonstrating the devastatingly harmful effect of direct and indirect childhood exposure to crime and violence.⁴ The documented harm ranges from physical and mental health problems,⁵ to increased risk for learning disabilities, behavioral problems, repeat victimization,⁶ juvenile delinquency,⁷ adult

³ William L.F. Felstiner, et al., *The Emergence And Transformation Of Disputes: Naming, Blaming, Claiming*, 15 *Law & Soc'y Rev.* 631 (1980-1981).

⁴ Frank W. Putnam, *The Impact of Trauma on Child Development*, 57 *Juvenile and Family Court Journal*, 1 (2006); G. Margolin & E. B. Gordis, *The Effects of Family And Community Violence On Children*, 51 *Annual Review of Psychology* 445 (2000); Robert L. Listenbee, et al., *Report of the Attorney General's National Task Force on Children Exposed to Violence* 66 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; R. Gilbert, et al., *Burden and consequences of child maltreatment in high-income countries*, 373 *Lancet* 68 (2009); M. Melchior, et al., *Why do children from socioeconomically disadvantaged families suffer from poor health when they reach adulthood? A life-course study*, 166(8) *American Journal of Epidemiology* 966 (2007).

⁵ Michael J. S. Weiss & Sheldon H. Wagner, *What Explains The Negative Consequences Of Adverse Childhood Experiences On Adult Health? Insights From Cognitive And Neuroscience Research*, 14 *Am. J. Prev. Med.* 356 (1998); Gayla Margolin and Elana B. Gordis, *The Effects Of Family And Community Violence On Children*, 51 *Annu. Rev. Psychol.* 445, 459 (2000); Tracie O. Afifi, et al., *Population Attributable Fractions Of Psychiatric Disorders And Suicide Ideation And Attempts Associated With Adverse Childhood Experiences*, 98(5) *American Journal of Public Health* 946 (2008); Eunju Lee, Heather Larkin and Nina Esaki, *Exposure to Community Violence as a New Adverse Childhood Experience Category: Promising Results and Future Considerations*, 98 *Families in Society: The Journal of Contemporary Social Services* 69, 69 (2017); Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14(4) *Am J Prev Med* 245, 251 (1998); Leah K. Gilbert et al., *Childhood Adversity and Adult Chronic Disease: An Update from Ten States and the District of Columbia*, 48(3) *Am J Prev Med* 345, 346 (2015); The Public Health Management Corporation, *Findings From The Philadelphia Urban ACE Survey* (Sep. 18, 2013), <http://www.instituteforsafefamilies.org/philadelphia-urban-ace-study>

⁶ C. S. Widom, S. J. Czaja & M. A. Dutton, *Childhood victimization and lifetime revictimization*, 32(8) *Child Abuse & Neglect* 785 (2008); J. D. Fargo, *Pathways to adult sexual revictimization: direct and indirect behavioral risk factors across the lifespan*, 24(11) *Journal of Interpersonal Violence* 1771 (2009); J. E. Barnes, et al., *Sexual and physical revictimization among victims of severe childhood sexual abuse*, 33(7) *Child Abuse & Neglect* 412 (2009); T. Lindhorst, et al., *Mediating pathways explaining psychosocial functioning and revictimization as sequelae of parental violence among adolescent mothers*, 79(2) *American Journal of Orthopsychiatry* 181 (2009)

⁷ David Finkelhor, et al., *Juvenile Delinquency And Victimization: A Theoretical Typology*, 22(12) *Journal of Interpersonal Violence* 1581 (2007); Carolyn Smith & Terence P. Thornberry, *The Relationship Between Childhood Maltreatment And Adolescent Involvement In Delinquency*, 33 *Criminology* 451 (1995).

criminality⁸ and substance abuse.⁹ In 2012, The Attorney General Task Force on Children Exposed to Violence declared the problem as “a national crisis and a threat to the health and well-being of our nation’s children and of our country.”¹⁰ Others have described it as one of the most costly public health and public safety problems in the United States today.¹¹

Despite the severity of childhood exposure to crime and violence and the increased attention given to its various components, thus far there are almost no studies or policy analyses that take an inclusive look at the problem as a whole. Most available studies focus exclusively on one isolated form of exposure.¹² Indirect forms of childhood exposure to crime and their effect are often ignored or narrowly defined. This segmented and compartmentalized approach, which avoids properly defining and “naming” the problem, has prevented us from gaining a true understanding of its full scope, effect and gravity. It has also hindered our ability to more accurately estimate the full cost of the problem to the state and to our society. Unsurprisingly, the absence of a comprehensive understanding of the problem diminishes the ability to develop effective systematic solutions to improve the lives of millions of affected children and alleviate the harm inflicted upon our society.

Following the long-standing methodology of legal problem solving, a truly inclusive examination of this devastating problem it was necessary to first ‘name’ it. This article coins the term *Comprehensive Childhood Crime Impact* or, in short, the *Triple-C Impact*. The term

⁸ Widom CS. 1998. Child victims: searching for opportunities to break the cycle of violence. *Appl. Prev. Psychol.* 7:225–34

⁹ Dean G. Kilpatrick, et al., Risk Factors For Adolescent Substance Abuse And Dependence: Data From a National Sample, 68 *Journal of Consulting and Clinical Psychology* 19 (2000); Michael Lynch, Consequences of Children’s Exposure to Community Violence, 6(4) *Clinical Child and Family Psychology Review* 265, 267-8 (2003); Mary E. Schwab-Stone, et al. (1995). No Safe Haven: A Study Of Violence Exposure In An Urban Community, 10 *Journal of the American Academy of Child and Adolescent Psychiatry* 1343 (1995); Dwain Fehon, Carlos M. Grilo & Deborah S. Lipschitz, Correlates Of Community Violence Exposure In Hospitalized Adolescents, 42 *Comprehensive Psychiatry* 283 (2001); S. R. Dube, et al., Adverse Childhood Experiences and Personal Alcohol Abuse As An Adult, 27 *Addictive Behaviors* 713 (2002); S. R. Dube, et al., Childhood Abuse, Neglect And Household Dysfunction And The Risk of Illicit Drug Use: The Adverse Childhood Experience Study, 111 *Pediatrics* 564 (2003); R. F. Anda, et al., Adverse Childhood Experiences and Smoking During Adolescence and Adulthood, 282 *Journal of the American Medical Association* 1652 (1999)

¹⁰ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 36 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹¹ Frank W. Putnam, The Impact of Trauma on Child Development, 57 *Juvenile and Family Court Journal*, 1, 2 (2006); Erica J. Adams, Justice Policy Institute, *Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense* 1 (2010).

¹² David Finkelhor et al., Children’s Exposure to Violence: A Comprehensive National Survey, *Juvenile Justice Bulletin* (Oct. 2009), available at: <https://www.ncjrs.gov/pdffiles1/ojdp/227744.pdf>

embodies the full effect of all forms of direct and indirect crime exposure on children. Informed by scientific findings, it aims to clearly depict the complete interlocking matrix of ways in which children are harmed by crime due to their unique developmental characteristics, and the spillover effect this harm has on society. The term allows for a common point of reference and a more precise use of terminology, as we examine this phenomenon, and attempt to develop effective responses to the challenges it poses.¹³

The objective of this article is to delineate the scientific and legal foundations at the base of the Triple-C Impact, and to identify primary obstacles to its effective engagement. From a scientific perspective, the article explores how the distinct developmental differences between children and adults shape the manner and severity in which crime exposure affects children. It also examines the marked short- and long-term injurious effect in store for this vulnerable group due to its discrete characteristics. From a legal perspective, the article outlines and analyzes the intriguing results of our original 50-state survey, which examines the statutory gaps in the existing response to the Triple-C Impact. The survey's results paint an invaluable and unexpected picture of the root causes behind the ineptness of existing legal solutions to the problem.

Section I of the article explains the fundamental principles of the Triple-C Impact. It also outlines the substantive differences between children and adults with regards to the impact of crime exposure on children. Section II delineates the scope of the Triple-C Impact. It carefully enumerates the categories of crime exposure that were selected to be included under the term, and the empirical evidence that supports such inclusion. Section III presents the results of the 50-state survey, which examines the statutory responses presently available in the field, and highlights statutory gaps. It also evaluates the strengths and weaknesses of the existing laws and policies, and identifies the root causes of the marked deficiencies in the existing attempts to combat the Triple-C Impact problem. Section IV elaborates on the policy implications of the survey's findings, and the manners in which the findings can be utilized to improve our ability to address the problem. Section V describes theoretical as well as practical reasons for addressing crime-related effects on children. Conclusions follow.

¹³ For more in depth analysis of the Triple-C Impact problem and its outcomes see: Michal Gilad et al., *The Snowball Effect of Crime & Violence: Measuring the Triple-C Impact*, 46 *FORDHAM URB. L.J.* (forthcoming 2018).

Section I: The Principles Underlying the Triple-C Impact

It is undisputed that crime is a negative and harmful phenomenon for any community or individual that it touches. However, the conceptualization of the Triple-C Impact rests on mounting empirical research demonstrating that there are significant developmental, social, and cultural differences between children and adults. These differences lead children to be more vulnerable and susceptible to the negative forces of crime.¹⁴ In fact, with relations to crime, children are considered to be the most vulnerable group in our society.¹⁵ The effect of crime infiltrates the lives of children from countless different directions. Despite common misperceptions, even when a criminal offence is not committed directly against the body of the child, evidence shows that it can leave marks that are acute, and often long lasting.

The Triple-C Impact hinges on a set of factors that differentiate children from adults. These developmental variances have been shown to broaden, amplify and influence the nature of the effect of crime on children when compared to adults. First, and most obvious, is that, on average, children are physically smaller and weaker than are most adults, and therefore are an easy target for predators. However, it is also vital to remember that children are not merely miniature adults, and many more substantive differentiators are at play.

Second, from a physiological and anatomical perspective, a child's brain is extremely malleable during the early years of life.¹⁶ As a result, the "literature on central nervous system plasticity suggests that the human brain is dramatically affected by early experience."¹⁷ Exposure to crime and violence during childhood causes heightened levels of stress and overstimulation of certain brain structures, which can lead to chemical imbalance in the child's brain and abnormal

¹⁴ David Finkelhor & Kathleen Kendall-Tackett, A Developmental Perspective on the Childhood Impact of Crime, Abuse & Violent Victimization, in D. Cicchetti & S. Toth (Eds.), *Developmental Perspectives on Trauma: Theory, Research, and Intervention* 1-32 (1997).

¹⁵ Patricia Hashima & David Finkelhor, Violent Victimization of Youth Versus Adults in The National Crime Victimization Survey, 14 *Journal of Interpersonal Violence* 799 (1999); David Finkelhor et al., Children's Exposure to Violence: A Comprehensive National Survey, in U.S. DEP'T OF JUSTICE, *JUVENILE JUSTICE BULLETIN* (Oct. 2009), available at <http://www.ncjrs.gov/pdffiles1/ojdp/227744.pdf>

¹⁶ Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 459 (2000); Bruce Perry, Incubated In Terror: Neurodevelopmental Factors In The "Cycle of Violence", in *Children in a Violent Society* 124 (Joy D. Osofsky ed. 1997)

¹⁷ Michael J. S. Weiss & Sheldon H. Wagner, What Explains The Negative Consequences Of Adverse Childhood Experiences On Adult Health? Insights From Cognitive And Neuroscience Research, 14 *Am. J. Prev. Med.* 356 (1998); Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 459 (2000).

neurological development.¹⁸ One recurring finding associated with crime exposure is a disruption in the development of the brain's major stress-regulating systems.¹⁹ The brain's executive functions, such as planning, memory, focusing attention, impulse control, and decision-making were also found to be impaired due to exposure.²⁰

Third, children are in critical stages of their emotional and cognitive development. Their identity is not yet formed, and their personality traits are in transitory stages. As a result, they are considered to be significantly more vulnerable and susceptible to external influences and pressures.²¹ They are less mentally stable than are adults, and are extremely sensitive to psychological damage.²² Exposure to crime at this critical state can interrupt the delicate and complex process of maturation and alter its path.²³ It may affect the timing of typical developmental trajectories, and disrupt children's progression through age-appropriate developmental tasks.²⁴

Furthermore, the underdeveloped cognitive capacity of most children and their emotional sensitivity limit their ability to "appraise and understand violence, to respond to and cope with danger, and to garner environmental resources that offer protection and support."²⁵ It also makes

¹⁸ Gayla Margolin and Elana B. Gordis, *The Effects Of Family And Community Violence On Children*, 51 *Annu. Rev. Psychol.* 445, 459 (2000); Richard J. Loewenstein & Frank W. Putnam (Eds.), *Report Of The American Psychiatric Association Task Force On The Biopsychosocial Consequences Of Childhood Violence* (June 2013), <http://www.researchgate.net/publication/239939460>

¹⁹ Gayla Margolin and Elana B. Gordis, *The Effects Of Family And Community Violence On Children*, 51 *Annu. Rev. Psychol.* 445, 460 (2000);

²⁰ Dana Charles McCoy, *Early Violence Exposure and Self-Regulatory Development: A Bioecological Systems Perspective*, 56(4) *Human Development* 254 (2013); Ayelet Lahat & Louis A. Schmidt, *Early Violence Exposure and Executive Function: Implications for Psychopathology and Other Cautionary Points*, 56(4) *Human Development* 274 (2013).

²¹ Jessica Feierman et al., *The Eighth Amendment Evolves: Defining Cruel And Unusual Punishment Through The Lens Of Childhood And Adolescence*, 15 *University of Pennsylvania Journal of Law and Social Policy* 285, 294-297 (2012).

²² *Roper v. Simmons*, 543 U.S. 551, 569-70 (2005)

²³ Suzanne G. Martin, *Children Exposed to Domestic Violence: Psychological Considerations For Health Care Practitioners*, 16(3) *Holistic Nursing Practice* 7 (2002); Jennifer E. McIntosh, *Thought In The Face Of Violence: A Child's Need*, 26 *Child Abuse and Neglect* 229 (2002); Stephanie Holt, Helen Buckley & Sadhbh Whelan, *The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature*, 32 *Child Abuse & Neglect* 797, 802 (2008).

²⁴ Gayla Margolin and Elana B. Gordis, *The Effects Of Family And Community Violence On Children*, 51 *Annu. Rev. Psychol.* 445, 449 (2000); S. Boney-McCoy & David Finkelhor, *Psychosocial Sequelae Of Violent Victimization In a National Youth Sample*, 63 *J. Consult. Clin. Psychol.* 726 (1995).

²⁵ Gayla Margolin and Elana B. Gordis, *The Effects Of Family And Community Violence On Children*, 51 *Annu. Rev. Psychol.* 445, 450 (2000).

it difficult for them to process and cope with trauma and heal without external assistance.²⁶ The developmentally-limited ability of young children to verbalize the powerful emotions they are experiencing may also aggravate the effect of exposure.²⁷ Victimology experts like Dr. Linda Mills recognize that there is a significant risk that any symptoms caused by crime exposure during these critical developmental stages will become embedded in the individual's core personality structure.²⁸

Fourth, as a factor of their social and psychological immaturity, children are dependent on adults for their survival and basic psychical and emotional needs.²⁹ Their dependency status enhances their vulnerability to the harmful effect of forms of indirect crime exposure. They “rely strongly on parent figures to protect them from danger, to make the world predictable and safe as they begin to venture forth, and to guide their responses in ambiguous or threatening situations.”³⁰ Thus, when a caregiver is subjected to victimization, illicit substance abuse, or incarceration, the dependent children are often deprived of the care, support, guidance, and protection essential for their development into healthy, productive members of society.

Moreover, due to their dependency status, children have comparatively little choice over their living environment, and the people with whom they associate. Research presented in the American Psychological Association Amicus Brief submitted to the US Supreme Court in *Graham v. Florida*³¹ finds that minors are “dependent on living circumstances of their parents and families and hence are vulnerable to the impact of conditions well beyond their control.”³²

²⁶ Jessica Feerman et al., *The Eighth Amendment Evolves: Defining Cruel And Unusual Punishment Through The Lens Of Childhood And Adolescence*, 15 *University of Pennsylvania Journal of Law and Social Policy* 285, 296 (2012).

²⁷ Stephanie Holt, Helen Buckley & Sadhbh Whelan, *The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature*, 32 *Child Abuse & Neglect* 797, 802 (2008).

²⁸ Linda G. Mills, *The Justice of Recovery: How the State Can Heal the Violence of Crime*, 57 *Hastings L.J.* 457, 486 (2005).

²⁹ Elizabeth Scott, *The Legal Construction of Childhood*, 29 *Hofstra U. L. Rev.* 541, 546 (2000).

³⁰ Gayla Margolin and Elana B. Gordis, *The Effects Of Family And Community Violence On Children*, 51 *Annu. Rev. Psychol.* 445, 450 (2000).

³¹ *Graham v. Florida*, 130 S. Ct. 2011, 2017 (2010),

³² Brief For The American Psychological Association, American Psychiatric Association, National Association Of Social Workers, And Mental Health America As Amici Curiae Supporting Petitioners at 15, *Graham v. Florida*, 130 S. Ct. 2011, 2017 (2010) (Nos. 08-7412, 08-7621), <http://www.apa.org/about/offices/ogc/amicus/graham-v-floridasullivan.pdf>; Alan E. Kazdin, *Adolescent Development, Mental Disorders, and Decision Making of Delinquent Youths*, in *Youth on Trial* 33, 47 (Thomas Grisso & Robert G. Schwartz eds., 2000). (Although this series of Supreme Court cases, including *Roper*, *Graham* and *Miller*, dealt with juveniles offenders rather than

Justice Kagan, delivering the opinion of the court in *Miller v. Alabama*, reinforced the fact that minor children have limited control over their own environment, and are usually unable to extricate themselves from their surrounding environment, no matter how brutal or dysfunctional it is.³³ Hence, children do not have the capabilities or resources to remove themselves from harmful circumstances induced by crime and violence.³⁴ Furthermore, they depend on the assistance and initiative of adults to seek help for their rehabilitation and recovery from trauma.

Fifth, children have underdeveloped decision-making capacities. This is due to children's level of cognitive development, immature judgment, and limited life experiences.³⁵ As a result, children tend to exhibit risk taking behavior and low risk aversion utility, particularly during teen years.³⁶ This could increase their exposure to crime and violence. Additionally, due to these immature decision-making capacities, the law normally charges adults with the task of making important decisions affecting children's lives. However, when parents or caregivers are incapacitated by violence, victimization, or incarceration, their ability to make coherent decisions on behalf of their children, and to fully consider their best interests, is inevitably diminished. This dynamic overexposes children to the harmful effect of crime.

Lastly, children are in the midst of their legal socialization. Tom Tyler and Jeffrey Fagan define legal socialization as a process that unfolds during childhood and adolescence, through which

victims, the court and amici's analysis of scientific developmental psychology is useful for an understanding of the special needs of juvenile and their unique characteristics and behavioral traits).

³³ *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

³⁴ David Finkelhor & Patricia Y. Hashima, *The Victimization of Children & Youth: A Comprehensive Overview*, in *Law and social science perspectives on youth and justice* (S.O. White, Ed.) 49, 59-61 (2001).

³⁵ Elizabeth S. Scott & Thomas Grisso, *The Evolution of Adolescence: A Developmental Perspective on Juvenile Justice Reform*, 88 *J. Crim. L. & Criminology* 137, 157 (1997). See also: Kim Taylor-Thompson, *State of Mind State of Development*, 14 *Stan. L. & Policy Rev.* 143, 150 (2003); Elizabeth Scott, *The Legal Construction of Childhood*, 29 *Hofstra U. L. Rev.* 541, 546 (2000).

³⁶ Elizabeth Scott, *The Legal Construction of Childhood*, 29 *Hofstra U. L. Rev.* 541, 546 (2000); Elizabeth S. Scott, N. Dickon Reppucci and Jennifer L. Woolard, *Evaluating Adolescent Decision-Making in Legal Contexts*, 19 *LAW & HUM. BEHAV.* 221 (1995). Andrea L. Gless, Adrian Raine & R. A. Schug, *The Neural Correlates of Moral Decision-Making in Psychopathy*, 14 *Molecular Psychiatry* 5 (2009); Adrian Raine & Yaling Yang, *Neural Foundations To Moral Reasoning And Antisocial Behavior*, 1(3) *Social Cognitive and Affective Neuroscience* 203 (2006). See also Laurence Steinberg & Elizabeth Cauffman, *Maturity of Judgement in Adolescence: Psychosocial Factors in Adolescent Decisionmaking*, 20 *L. & Human Behavior* 249 (1996); Lita Furby & Ruth Beyth-Marom, *Risk Taking in Adolescence: A Decision-Making Perspective*, 12 *DEV. REV.* 1 (1992); W. Gardner, *A Life Span Theory of Risk Taking in ADOLESCENT AND ADULT RISK TAKING: THE 8TH TEXAS SYMPOSIUM ON INTERFACES IN PSYCHOLOGY* (N. Bell, ed., 1992); J. Nurmi, *How Do Adolescents See Their Future?: A Review of the Development of Future Orientation and Planning*, 11 *DEV'L. REV.* 1 (1991); A.L. Green, *Future-Time Perspective in Adolescence: The Present of Things Future Revisited*, 15 *J. YOUTH & ADOL.* 99 (1986).

children develop an inclination towards compliance with the law and cooperation with legal actors.³⁷ The process is highly affected by children's exposure to crime, and their childhood experiences with legal actors, law enforcement, and the justice system.³⁸ Inferring from the research findings of Tyler and Fagan, it is likely that exposure to crime and violence, and the failure of the legal system to protect children from these harmful experiences, interfere with the legal socialization process of affected children. Disruption of this fundamental developmental process may explain a proclivity towards criminal behavior and illicit substance abuse in individuals affected by crime during childhood.³⁹

This set of fundamental developmental attributes commonly found in minor children overexposes children to the influence of crime, and expands its effect far beyond conventional direct victimization. Insufficient account for these highly-relevant differences between children and adults, and the unique developmental needs associated with these disparities, will inevitably impair the efficacy of any law or policy attempting to address the problem. The coining of the Triple-C Impact stems from an understanding that such marked distinctions necessitate focused attention on children as a unique group in order to develop a profound and accurate understanding of the problem and its possible solutions.

Section II: The Scope of the Triple-C Impact - Categories of Exposure

A significant element of the 'naming' process is clearly marking the boundaries and content of the problem. The Triple-C Impact term is designed to encompass the full-range of direct and indirect crime exposures that were found by empirical research to pose substantial short- and long-term harm to children due to the aforementioned unique developmental characteristics. The primary criterion used in the selection of the exact categories of childhood exposure to crime is

³⁷ Jeffrey Fagan & Tom R. Tyler, Legal Socialization of Children and Adolescent, 18 Social Justice Research 217, 219-222 (2005). See also: Jeffrey Fagan, et al., Developmental Trajectories of Legal Socialization among Adolescent Offenders 96 Journal of Criminal Law and Criminology 267 (2005).

³⁸ Jeffrey Fagan & Tom R. Tyler, Legal Socialization of Children and Adolescent, 18 Social Justice Research 217 (2005).

³⁹ Cathy Spatz Widom, Child Victims: Searching For Opportunities To Break The Cycle of Violence, 7(4) Appl. Prev. Psychol. 225 (1998); Dean G. Kilpatrick, et al., Risk Factors For Adolescent Substance Abuse And Dependence: Data From a National Sample, 68 Journal of Consulting and Clinical Psychology 19 (2000).

the presence of significant empirical evidence to support and demonstrate potential harm to the child, which rises to a level similar to that caused by direct victimization.⁴⁰

Direct victimization is the most conventional and commonly recognized form of crime exposure. It occurs when an act defined by law as a criminal offense is committed against the person of the child. Children who experience direct victimization, especially where violent crime is concerned, have been shown to exhibit an array of adverse short- and long-term symptoms. The harm endured may vary depending on the type, severity and frequency of the victimization, as well as the child characteristics, such as age, gender, socio-economic status, level of familial support, and the child's emotional capacity.⁴¹

Documented symptoms include aggression; developmental and behavioral problems; attention disorders; attachment disorders; delays in educational development; and a deficit in social adaptation.⁴² These children also suffer from increased risk for repeat victimization, mental

⁴⁰ Due consideration should be given to the fact that children are not equally affected by crime victimization and trauma. Some children are deeply affected by victimization, whether direct or indirect, while others exhibit high levels of resilience (David Finkelhor, *Developmental Victimology: The comprehensive study of childhood victimization*, in R. C. David, et al. (Eds), *Victims of crime* (3rd ed.) 9,12 (2007)). The exact combination of factors that allow some children to develop higher levels of resilience than others is not yet fully understood. However, factors such as age, gender, relationship with the caregiver, personal strengths and vulnerabilities, characteristics of the child's family and community, and the frequency and severity of the victimization, were shown by empirical research to have an effect on children's responses (Betsy Mcalister Groves, et al., *Family Violence Prevention Fund, Identifying and Responding to Domestic Violence: Consensus Recommendations For child and Adolescents Health* 6 (2004), <http://www.futureswithoutviolence.org/userfiles/file/HealthCare/pediatric.pdf>; Anne Petersen, Joshua Joseph, & Monica Feit, *New Directions in Child Abuse and Neglect* 133 (2013)).

⁴¹ Betsy Mcalister Groves, et al., *Family Violence Prevention Fund, Identifying and Responding to Domestic Violence: Consensus Recommendations For child and Adolescents Health* 6 (2004), <http://www.futureswithoutviolence.org/userfiles/file/HealthCare/pediatric.pdf>; S. R. Jaffee, et al., Individual, family, and neighborhood factors distinguish resilient from non-resilient maltreated children: a cumulative stressors model, 31(3) *Child Abuse & Neglect* 231 (2007); Anne Petersen, Joshua Joseph, & Monica Feit, *New Directions in Child Abuse and Neglect* 133 (2013); Stephanie Holt, Helen Buckley & Sadhbh Whelan, *The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature*, 32 *Child Abuse & Neglect* 797, 804-5 (2008); Lucy Salcido Carter, Lois A. Weithorn & Richard E. Behrman, *Domestic Violence And Children: Analysis And Recommendations*, 9(3) *The Future of Children* 4 (1999); Stephanie Holt, Helen Buckley & Sadhbh Whelan, *The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature*, 32 *Child Abuse & Neglect* 797, 802-3 (2008).

⁴² Frank W. Putnam, *The Impact of Trauma on Child Development*, 57 *Juvenile and Family Court Journal*, 1 (2006); G. Margolin & E. B. Gordis, *The Effects of Family And Community Violence On Children*, 51 *Annual Review of Psychology* 445 (2000); Robert L. Listenbee, et al., *Report of the Attorney General's National Task Force on Children Exposed to Violence* 31-32 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; J. G. Hovens, et al., *Impact Of Childhood Life Events And Trauma On The Course Of Depressive And Anxiety Disorders*, 126(3) *Acta Psychiatrica Scandinavica* 198 (2012); Sara Larsson, et al., *High Prevalence Of Childhood Trauma In Patients With Schizophrenia Spectrum And Affective Disorder*, 54(2) *Comprehensive Psychiatry* 123 (2012); Anna Plaza, et al. *Childhood Physical Abuse As A Common Risk Factor For Depression*

health problems, and greater likelihood to engage in criminal activity.⁴³ They are more inclined to practice risk behaviors, including alcoholism, drug abuse, smoking, suicide attempts, sexually

And Thyroid Dysfunction In The Earlier Postpartum, 200 *Psychiatry Research* 329 (2012); Saaniya Bedi, et al., Risk For Suicidal Thoughts And Behavior After Childhood Sexual Abuse In Women And Men, 41(4) *Suicide and Life-Threatening Behavior* 406 (2011); Laura P. Chen, et al., Sexual Abuse And Lifetime Diagnosis Of Psychiatric Disorders: Systematic Review And Meta-Analysis, 85(7) *Mayo Clinic Proceedings* 618 (2010); Tracie O. Afifi, et al., Population Attributable Fractions Of Psychiatric Disorders And Suicide Ideation And Attempts Associated With Adverse Childhood Experiences, 98(5) *American Journal of Public Health* 946 (2008); Sarah Jonas, et al., Sexual Abuse And Psychiatric Disorder In England: Results From The 2007 Adult Psychiatric Morbidity Survey, 41(4) *Psychological Medicine* 709 (2011); Luisa Sugaya, et al., Child Physical Abuse And Adult Mental Health: A National Study, 25(4) *Journal of Traumatic Stress* 384 (2012); Scott E. Hadland, et al., Suicide And History Of Childhood Trauma Among Street Youth, 136(3) *Journal of Affective Disorders* 377 (2012); B. Wanner, et al., Childhood Trajectories Of Anxiousness And Disruptiveness Explain The Association Between Early-Life Adversity And Attempted Suicide, 42(11) *Psychological Medicine* 2373 (2012); Matte Ystgaard, et al., Is There A Specific Relationship Between Childhood Sexual And Physical Abuse And Repeated Suicidal Behavior? 28(8) *Child Abuse & Neglect* 863 (2004); Paul Rohde, et al., Associations Of Child Sexual And Physical Abuse With Obesity And Depression In Middle-Aged Women, 32(9) *Child Abuse & Neglect* 878 (2008); Lena Sanci, et al., Childhood Sexual Abuse And Eating Disorders In Females: Findings From The Victorian Adolescent Health Cohort Study, 162(3) *Archives of Pediatric and Adolescent Medicine* 261 (2008); Jacqueline C. Carter, et al., The Impact Of Childhood Sexual Abuse In Anorexia Nervosa, 30(3) *Child Abuse & Neglect* 257 (2006); Jennie G. Noll, et al., Sleep Disturbances And Childhood Sexual Abuse, 31(5) *Journal of Pediatric Psychology* 469 (2006); Annmarie C. Hulette, Jennifer J. Freyd & Philip A. Fisher, Dissociation In Middle Childhood Among Foster Children With Early Maltreatment Experiences, 35(2) *Child Abuse & Neglect* 123 (2011); Terri L. Messman-Moore, Kate L. Walsh & David Dilillo, Emotion Dysregulation And Risky Sexual Behavior In Revictimization, 34(12) *Child Abuse & Neglect* 967 (2010).

⁴³ Laura Bevilacqua, et al., Interaction Between FKBP5 And Childhood Trauma And Risk Of Aggressive Behavior, 69(1) *Archives of General Psychiatry* 62 (2012); Sunny H. Shin, Daniel P. Miller, & Martin H. Teicher, Exposure To Childhood Neglect And Physical Abuse And Developmental Trajectories Of Heavy Episodic Drinking From Early Adolescence Into Young Adulthood, 127 *Drug and Alcohol Dependence* 31 (2013); Shi Huang, et al., The Long-Term Effects Of Childhood Maltreatment Experiences On Subsequent Illicit Drug Use And Drug-Related Problems In Young Adulthood, 36 *Addictive Behaviors* 95 (2011); Sjoukje Berdina Beike De Boer, et al. Childhood Characteristics Of Adolescent Inpatients With Early-Onset And Adolescent-Onset Disruptive Behavior, 34(3) *Journal of Psychopathology and Behavioral Assessment* 415 (2012); Sophie Boivin, et al., Past Victimization And Dating Violence Perpetration In Adolescence: The Mediating Role Of Emotional Distress And Hostility, 27(4) *Journal of Interpersonal Violence* 662 (2012); Eleni Maneta, et al., Links Between Childhood Physical Abuse And Intimate Partner Aggression: The Mediating Role Of Anger Expression, 27(3) *Violence and Victims* 315 (2012); Deborah J. Jones, et al., Linking Childhood Sexual Abuse And Early Adolescent Risk Behavior: The Intervening Role Of Internalizing And Externalizing Problems, 41(1) *Journal of Abnormal Child Psychology* 139 (2013); Christina S. Meade, et al., Methamphetamine use is associated with childhood sexual abuse and HIV sexual risk behaviors among patrons of alcohol-serving venues in Cape Town, South Africa, 126 *Drug and Alcohol Dependence* 232 (2012); Roberto Maniglio, The Role Of Child Sexual Abuse In The Etiology Of Substance-Related Disorders, 30(3) *Journal of Addictive Disorders* 216 (2011); Bryndis B. Asgeirsdottir, et al., Associations Between Sexual Abuse And Family Conflict/Violence, Self-Injurious Behavior, And Substance Use: The Mediating Role Of Depressed Mood And Anger, 35(3) *Child Abuse & Neglect* 210 (2011); Helen W. Wilson & Cathy S. Widom, Pathways From Childhood Abuse And Neglect To HIV-Risk Sexual Behavior In Middle Adulthood, 79(2) *Journal of Consulting and Clinical Psychology* 236 (2011); Helen W. Wilson & Cathy S. Widom, The Role Of Youth Problem Behaviors In The Path From Child Abuse And Neglect To Prostitution: A Prospective Examination, 20(1) *Journal of Research in Adolescence* 210 (2010); Lynette M. Renner & Stephen D. Whitney, Risk Factors For Unidirectional And Bidirectional Intimate Partner Violence Among Young Adults, 36(1) *Child Abuse & Neglect* 40 (2012).

promiscuous behavior, and unintended pregnancies.⁴⁴ A strong link between childhood victimization and life-threatening health conditions, such as cancer, lung, heart, liver and skeletal diseases, sexually transmitted diseases, and obesity, has also been established.⁴⁵

On the other hand, indirect victimization occurs when a child experiences harm as a result of a criminal act committed against another. Experts in the field assert that “[al]though indirect victimization affects adults as well as children, the latter are particularly vulnerable to its effects, due to their dependency on those being victimized.”⁴⁶ In fact, empirical studies demonstrate that unlike adults, direct and indirect victimization affect children in a very similar manner. Research has shown that what may appear to the lay-eye to be “minor” forms of crime exposure, such as

⁴⁴ S. R. Dube, et al., Adverse Childhood Experiences and Personal Alcohol Abuse As An Adult, 27 Addictive Behaviors 713 (2002); S. R. Dube, et al., Childhood Abuse, Neglect And Household Dysfunction And The Risk of Illicit Drug Use: The Adverse Childhood Experience Study, 111 Pediatrics 564 (2003); R. F. Anda, et al., Adverse Childhood Experiences and Smoking During Adolescence and Adulthood, 282 Journal of the American Medical Association 1652 (1999); S. D. Hillis, et al., The Association Between Adverse Childhood Experiences and Adolescent Pregnancy, Long-Term Psychosocial Outcomes, And Fetal Death, 113 Pediatrics 320 (2004); R. F. Anda RF, et al.; Sunny H. Shin, Daniel P. Miller, & Martin H. Teicher, Exposure To Childhood Neglect And Physical Abuse And Developmental Trajectories Of Heavy Episodic Drinking From Early Adolescence Into Young Adulthood, 127 Drug and Alcohol Dependence 31 (2013); Shi Huang, et al., The Long-Term Effects Of Childhood Maltreatment Experiences On Subsequent Illicit Drug Use And Drug-Related Problems In Young Adulthood, 36 Addictive Behaviors 95 (2011); Deborah J. Jones, et al., Linking Childhood Sexual Abuse And Early Adolescent Risk Behavior: The Intervening Role Of Internalizing And Externalizing Problems, 41(1) Journal of Abnormal Child Psychology 139 (2013); Christina S. Meade, et al., Methamphetamine use is associated with childhood sexual abuse and HIV sexual risk behaviors among patrons of alcohol-serving venues in Cape Town, South Africa, 126 Drug and Alcohol Dependence 232 (2012); Roberto Maniglio, The Role Of Child Sexual Abuse In The Etiology Of Substance-Related Disorders, 30(3) Journal of Addictive Disorders 216 (2011); Bryndis B. Asgeirsdottir, et al., Associations Between Sexual Abuse And Family Conflict/Violence, Self-Injurious Behavior, And Substance Use: The Mediating Role Of Depressed Mood And Anger, 35(3) Child Abuse & Neglect 210 (2011); Helen W. Wilson & Cathy S. Widom, Pathways From Childhood Abuse And Neglect To HIV-Risk Sexual Behavior In Middle Adulthood, 79(2) Journal of Consulting and Clinical Psychology 236 (2011); Helen W. Wilson & Cathy S. Widom, The Role Of Youth Problem Behaviors In The Path From Child Abuse And Neglect To Prostitution: A Prospective Examination, 20(1) Journal of Research in Adolescence 210 (2010); C. L. Whitfield, et al., Violent Childhood Experiences and The Risk of Intimate Partner Violence in Adults: Assessment In A Large Health Maintenance Organization, 18 Journal of Interpersonal Violence 166 (2003).

⁴⁵ Renee Boynton-Jarrett, et al., Child and Adolescent Abuse in Relation To Obesity In Adulthood: The Black Women’s Health Study, 130(2) Pediatrics 245 (2012); Alanna D. Hager & Marsha G. Runtz, Physical And Psychological Maltreatment In Childhood and Later Health Problems in Women: An Exploratory Investigation Of The Roles Of Perceived Stress And Coping Strategies, 36(5) Child Abuse & Neglect 393 (2012); Natalie Slopen, et al. Childhood Adversity And Cell-Mediated Immunity In Young Adulthood: Does Type and Timing Matter? Brain, Behavior, and Immunity (2012); M. L. Paras, et al., Sexual Abuse And Lifetime Diagnosis Of Somatic Disorders: A Systematic Review And Meta-Analysis, 302(5) Journal of the American Medical Association 550 (2009); Roberto Maniglio, The Impact of Child Sexual Abuse On Health: A Systematic Review Of Reviews, 29(7) Clinical Psychology Review 647 (2009).

⁴⁶ David Finkelhor, Developmental Victimology: The comprehensive study of childhood victimization, in R. C. David, et al. (Eds), Victims of crime (3rd ed.) 9,12 (2007).

witnessing violence without being physically touched, can result in substantial harm.⁴⁷ The harm caused varies in a comparable manner to direct victimization, and is influenced by a similar set of variables pertaining to the crime and the child.⁴⁸ Indirect victimization can result from many different forms of crime exposure during childhood.⁴⁹

A meticulous review of the medical and social science studies in the field has highlighted specific forms of indirect crime exposure that emulate the injurious effect of direct victimization.

Exposure to Family Violence

The most well-known manifestation of indirect crime exposure is witnessing family crime and violence. These are cases where the child witnesses⁵⁰ a crime committed in the home, among family members, but does not suffer direct physical harm as a result of the witnessed crime.

⁴⁷ Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 66 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; I. Harpaz-Rotem, et al., Clinical epidemiology of urban violence: responding to children exposed to violence in ten communities, 22(11) *Journal of Interpersonal Violence* 1479 (2007); W. W. Harris, A. F. Lieberman & S. Marans, In the best interests of society, 48(3-4) *Journal of Child Psychology and Psychiatry and Allied Disciplines* 392 (2007); P. Chauhan & C. S. Widom, Childhood maltreatment and illicit drug use in middle adulthood: the role of neighborhood characteristics, 24(3) *Development and Psychopathology* 723 (2012); C. S. Widom, et al., A prospective investigation of physical health outcomes in abused and neglected children: new findings from a 30-year follow-up, 102(6) *American Journal of Public Health* 1135 (2012); H. W. Wilson & C. S. Widom, Pathways from childhood abuse and neglect to HIV-risk sexual behavior in middle adulthood, 79(2) *Journal of Consulting and Clinical Psychology* 236 (2011); V. Nikulina, C. S. Widom, & S. Czaja, The role of childhood neglect and childhood poverty in predicting mental health, academic achievement and crime in adulthood, 48(3-4) *American Journal of Community Psychology* 309 (2011); J. Currie & C. S. Widom, Long-term consequences of child abuse and neglect on adult economic well-being, 15(2) *Child Maltreatment* 111 (2010); T. Bentley & C. S. Widom, A 30-year follow-up of the effects of child abuse and neglect on obesity in adulthood, 17(10) *Obesity (Silver Spring)* 1900 (2009); H. W. Wilson & C. S. Widom, Does physical abuse, sexual abuse, or neglect in childhood increase the likelihood of same-sex sexual relationships and cohabitation? A prospective 30-year follow-up, 39(1) *Archives of Sexual Behavior* 63 (2010); R. Gilbert, et al., Burden and consequences of child maltreatment in high-income countries, 373 *Lancet* 68 (2009); C. S. Widom, S. J. Czaja & M. A. Dutton, Childhood victimization and lifetime revictimization, 32(8) *Child Abuse & Neglect* 785 (2008).

⁴⁸ Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 804-6 (2008).

⁴⁹ J. D. Ford, Complex adult sequelae of early life exposure to psychological trauma, In *The hidden epidemic: The impact of early life trauma on health and disease* 69-76 (R. A. Lanius, E. Vermetten, & C. Pain Eds., 2010).

⁴⁹ Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 29-30 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; W. W. Harris, A. F. Lieberman & S. Marans In the best interests of society, 48(3-4) *Journal of Child Psychology and Psychiatry and Allied Disciplines* 392 (2007).

⁵⁰ For the purpose of this paper, a child is considered to be a witness to a crime when he or she perceives the criminal incident in one of their senses (sight, hearing, etc.) or observes the aftermath of the crime (injuries, damage to property, etc.).

The presence of crime and violence in the home interrupts the sense of safety, security and stability that such an environment is meant to foster in a child.⁵¹ Such unsettling disruption can create a deep sense of uncertainty and preoccupation with fear,⁵² as well as grief, anger, and shame.⁵³ These children often feel “a sense of terror that they will lose an essential caregiver, such as a battered parent who is severely injured and could be killed.”⁵⁴ To complicate things even further, they also often “fear losing their relationship with a battering parent who may be taken away and incarcerated or even executed.”⁵⁵ The developmentally ego-centric thinking of children also frequently leads them to be burdened by “profound guilt⁵⁶ because they believe that they should have somehow intervened or prevented the violence — or, tragically, that they actually caused the violence.”⁵⁷ Affected children describe “ambivalent attitudes towards both their parents”, including “fear and empathy” towards the abusing parent, and “compassion

⁵¹ Jennifer E. McIntosh, *Thought In The Face Of Violence: A Child’s Need*, 26 *Child Abuse and Neglect* 229 (2002); Suzanne G. Martin, *Children Exposed to Domestic Violence: Psychological Considerations For Health Care Practitioners*, 16(3) *Holistic Nursing Practice* 7 (2002).

⁵² Stephanie Holt, Helen Buckley & Sadhbh Whelan, *The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature*, 32 *Child Abuse & Neglect* 797, 802-3 (2008).

⁵³ Robert L. Listenbee, et al., *Report of the Attorney General’s National Task Force on Children Exposed to Violence* 32 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; E. M. Cummings, et al., *Children and Violence: The Role of Children’s Regulation in The Marital Aggression-Child Adjustment Link*, 12(1) *Clinical Child and Family Psychology Review* 3 (2009); S. C. Perkins, et al., *The Mediating Role of Self-Regulation Between Intrafamilial Violence and Mental Health Adjustment in Incarcerated Male Adolescents*, 27(7) *Journal of Interpersonal Violence* 1199 (2012).

⁵⁴ P. T. Davies, et al., (2002). *Child Emotional Security and Interparental Conflict*, 67(3) *Monographs of the Society for Research in Child Development* i–v, vii–viii, 1–115 (2002); A. C. Schermerhorn, E. M. Cummings & P. T. Davies, *Children’s Representations of Multiple Family Relationships: Organizational Structure and Development in Early Childhood*, 22(1) *Journal of Family Psychology* 89 (2008); E. M. Cummings, et al., *Interparental Discord and Child Adjustment: Prospective Investigations of Emotional Security As An Explanatory Mechanism*, 77(1) *Child Development* 132 (2006); D. S. Schechter, et al., *Distorted Maternal Mental Representations and Atypical Behavior in a Clinical Sample of Violence-Exposed Mothers and Their Toddlers*, 9(2) *Journal of Trauma and Dissociation* 123 (2008); A. J. Botsis, et al., *Parental loss and family violence as correlates of suicide and violence Risk*, 25(2) *Suicide and Life-Threatening Behavior* 253 (1995); T. Gaensbauer, et al., *Traumatic loss in a one-year-old girl*, 34(4) *Journal of the American Academy of Child & Adolescent Psychiatry* 520 (1995).

⁵⁵ E. Beck & S. J. Jones, *Children of The Condemned: Grieving The Loss of a Father to Death Row*, 56(2) *Omega (Westport)* 191 (2007).

⁵⁶ A. Fortin, M. Doucet, & D. Damant, *Children’s Appraisals As Mediators of The Relationship Between Domestic Violence and Child Adjustment*, 26(3) *Violence and Victimology* 377 (2011); Stephanie Holt, Helen Buckley & Sadhbh Whelan, *The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature*, 32 *Child Abuse & Neglect* 797, 803 (2008).

⁵⁷ Robert L. Listenbee, et al., *Report of the Attorney General’s National Task Force on Children Exposed to Violence* 32 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; P. T. Davies, E. M. Cummings & M. A. Winter, *Pathways Between Profiles of Family Functioning, Child Security in The Interparental Subsystem, and Child Psychological Problems*, 16(3) *Development and Psychopathology* 525 (2004).

coupled with a sense of obligation to protect” the abused.⁵⁸ Experiences of recurring sadness, confusion and disappointment are also commonly described.⁵⁹

The presence of crime and violence in the home, particularly when intimate partner violence between mother and father is involved, can make “each caretaker less available to the child,” with the abuser perceived as “unpredictable and frightening” while the abused parent is distracted by basic issues of safety and survival for themselves and their children.⁶⁰

The Intergenerational Transmission of Violence theory posits that “witnessing and experiencing violence as a child leads to a greater use or tolerance of violence as an adult.”⁶¹ The child’s ongoing exposure to aggression in the immediate environment can lead to a conceptualization of aggression as a functional and legitimate part of intimate relationships and family dynamics.⁶² Furthermore, children have a developmental need to attach rationale and justification to the batterer’s behavior in order to cope with the traumatic event. If inappropriate or inaccurate rationalization of abusive behavior is not addressed, the child is potentially at risk of adopting anti-social rationales for their own abusive behavior or abuse perpetrated against them.⁶³ The theory is thought to explain the heightened risk for either perpetrating or becoming a victim of domestic violence in adulthood observed among children exposed to family violence, thus

⁵⁸ Hadass Goldblatt, Strategies of Coping Among Adolescents Experiencing Interparental Violence, 18(2) *Journal of Interpersonal Violence* 532 (2003); Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 802 (2008).

⁵⁹ Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 802 (2008).

⁶⁰ Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 451 (2000); Gayla Margolin, Effects of Domestic Violence On Children, in *Violence Against Children In The Family And The Community* 57 (Penelope K. Trickett & Cynthia J. Schellenbach, eds., 1998).

⁶¹ Fred E. Markowitz, Attitudes And Family Violence: Linking Intergenerational And Cultural Theories, 16(2) *Journal of Family Violence* 205 (2001); Sandra M. Smith, et al., The Intergenerational Transmission of Spouse Abuse: A Meta-Analysis, 62 *Journal of Marriage and the Family* 640 (2000); Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 803 (2008).

⁶² Joy D. Osofsky, Prevalence Of Children’s Exposure To Domestic Violence And Child Maltreatment: Implications For Prevention And Intervention, 6(3) *Clinical Child and Family Psychology Review* 161(2003); George W. Holden, Children Exposed To Domestic Violence And Child Abuse: Terminology And Taxonomy, 6(3) *Clinical Child and Family Psychological Review* 151(2003); Sandra A. Graham-Bermann & Victoria Brescoll, Gender, Power And Violence: Assessing The Family Stereotypes Of The Children Of Batterers, 14(4) *Journal of Family Psychology* 600 (2000).

⁶³ Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 803 (2008).

leading to an inter-generational cycle of violence.⁶⁴ The theory also associates childhood exposure with greater likelihood of involvement in anti-social behavior, peer aggression, bullying and violent crime.⁶⁵

The Intergenerational Transmission of Violence theory also finds support in empirical research. A study by Gelles and Cavanaugh estimated the intergenerational transmission rate to be 30% ($\pm 5\%$).⁶⁶ These findings were supported by a 12-year longitudinal study which “found that young adults who had been exposed to parental violence as children were 189% more likely than those not exposed, to experience violence in their own adult relationships.”⁶⁷ Research also found a direct relationship between the level of physical and emotional abuse of mothers and children’s belief systems regarding the intrinsic dominance and privilege of men, and the acceptable purpose of violence in family interactions.⁶⁸ Another study of individuals exposed to family violence during childhood has documented self-doubt of their “competency to become non-violent partners” and “ambivalence about their ability to control themselves.”⁶⁹

A recent study has examined the effect of childhood exposure to family violence on behavioral issues, including anxiety/depression, social interaction problems, attention problems, delinquency, aggression and externalizing behaviors. The study has found that children witnessing family violence alone had similar behavioral scores as children suffering from direct

⁶⁴ K. D. O’Leary, K. D., A. M. Smith Slep & S. G. O’Leary, Multivariate Models of Men’s and Women’s Partner Aggression, 75(5) *Journal of Consulting and Clinical Psychology* 752 (2007); Christine Wekerle & David A. Wolfe, Dating Violence In Mid-Adolescence: Theory, Significance, And Emerging Prevention Initiatives, 19(4) *Clinical Psychological Review* 435 (1999); Alytia A. Levendosky, Alissa C. Huth-Bocks & Michael A. Semel, Adolescent Peer Relationships And Mental Health Functioning In Families With Domestic Violence, 31(2) *Journal of Clinical Child Psychology* 206 (2002).

⁶⁵ Anna C. Baldry, Bullying In Schools And Exposure To Domestic Violence, 27 *Child Abuse & Neglect* 713 (2003); Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 806 (2008); Laurence Steinberg, Youth Violence: Do Parents And Families Make A Difference? 2 *National Institute of Justice Journal* 30 (2000).

⁶⁶ Richard J. Gelles & M. M. Cavanaugh Violence, Abuse And Neglect In families And Intimate Relationships, in *Families & change: Coping with stressful events and transitions* 129 (Sharon J. Price, Christine E. Price & Patrick C. McHenry (Eds.), 3rd ed., 2005).

⁶⁷ Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 805 (2008); Paul R. Amato, The Consequences Of Divorce For Adults And Children, 62 *Journal of Marriage and the Family* 1269 (2000).

⁶⁸ Sandra A. Graham-Bermann & Victoria Brescoll, Gender, Power And Violence: Assessing The Family Stereotypes Of The Children Of Batterers, 14(4) *Journal of Family Psychology* 600 (2000).

⁶⁹ Hadass Goldblatt, Strategies of Coping Among Adolescents Experiencing Interparental Violence, 18(2) *Journal of Interpersonal Violence* 532 (2003).

abuse. This effect is found to be most evident where boys are concerned. The only category in which differences were observed was the delinquency score, where children who witnessed the violence had a significantly higher score than that of the control group,⁷⁰ but still scored lower than children affected by direct abuse.⁷¹

The cumulative effect of these factors leads experts in the field to conclude that childhood exposure to family violence “has the potential to induce catastrophic and long-term trauma in the child witness.”⁷² They further warn that the fact that a child does not exhibit distinct symptoms does not necessarily mean that s/he is unaffected by the violence, as the child may still develop physical or emotional symptoms later in life.⁷³

Exposure to Community Crime

Even when the child’s home environment is violence-free, the child is not immune to the effect of crime and violence exposure, and may still experience indirect victimization as a result of exposure to community crime. The child may witness criminal activity outside the home, among non-relatives (for example in the neighborhood or school). Although the child is not directly physically injured, significant harm can result from the traumatic exposure. Negative effect was documented for children who witnessed violence directly through sight or sound, as well as those who only heard about the violence in retrospect.⁷⁴ This form of exposure to crime was found to

⁷⁰ The control group was composed of children who were not exposed to any form of family violence either directly or indirectly.

⁷¹ Yuping Cao, et al., Effects of Exposure to Domestic Physical Violence on Children’s Behavior: a Chinese Community-based Sample, 9(2) *Journal of Child & Adolescent Trauma* 127 (2016). (The study was conducted in China, and thus the research sample is composed solely of children of Chinese ethnicity).

⁷² Hadass Goldblatt, Strategies of Coping Among Adolescents Experiencing Interparental Violence, 18(2) *Journal of Interpersonal Violence* 532 (2003)

⁷³ Katherine M. Kitzmann, Et al., Child Witness To Domestic Violence: A Meta-Analytic Review, 71(2) *Journal of Consulting and Clinical Psychology* 339 (2003); Jennifer E. McIntosh, Children Living With Domestic Violence: Research Foundations For Early Intervention, 9(2) *Journal of Family Studies* 219 (2003); Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 446 (2000); Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 806 (2008).

⁷⁴ Michael Lynch, Consequences of Children’s Exposure to Community Violence, 6(4) *Clinical Child and Family Psychology Review* 265, 267(2003); Dawn K. Wilson, Violence Exposure, Catecholamine Excretion, And Blood Pressure Non-Dipping Status In African-American Male Versus Female Adolescents, 64 *Psychosomatic Medicine* 906 (2002); Patrick T. Sharkey, et al., The Effect of Local Violence on Children’s Attention and Impulse Control, 102(2) *American Journal of Public Health* 2287 (2012); Patrick T. Sharkey, The acute effect of local homicides on children’s cognitive performance, 107(26) *PNAS* 11733 (2010).

most frequently affect school-age children and adolescents.⁷⁵ Children living in economically impoverished families and communities are also far more likely to be exposed.⁷⁶

Like the home, the neighborhood and school are considered to be part of the child's primary safe haven.⁷⁷ Exposure to crime and violence in this environment can cause a loss of its protective and comforting qualities that are necessary for the development of the child's sense of security and trust.⁷⁸ Once deprived of the ability to feel safe in their own schools and neighborhoods, adoption of an attitude of hypervigilance commonly occurs — “never letting their guard down so they will be ready for the next outbreak of violence.”⁷⁹ Such exposure to violence can be interpreted by the child to mean not only that the world is unsafe but also that the child is unworthy of being kept safe, affecting self-esteem and the perception of self-worth.⁸⁰

Exposure to crime in the child's natural environment may lead the child to believe that violence is “normal” ... and that relationships are too fragile to trust because one never knows when

⁷⁵ Eunju Lee, Heather Larkin and Nina Esaki, Exposure to Community Violence as a New Adverse Childhood Experience Category: Promising Results and Future Considerations, 98 *Families in Society: The Journal of Contemporary Social Services* 69, 69 (2017); Bradley D. Stein, et al., Prevalence Of Child And Adolescent Exposure To Community Violence, 6(4) *Clinical Child and Family Psychology Review* 247 (2003); John E. Richters & Pedro Martinez, The NIMH Community Violence Project: I. Children As Victims Of And Witnesses To Violence, 56 *Psychiatry* 7 (1993).

⁷⁶ C. B. Cunradi, et al., Neighborhood Poverty As A Predictor of Intimate Partner Violence Among White, Black, and Hispanic Couples in The United States: A Multilevel Analysis, 10(5) *Annals of Epidemiology* 297 (2000); L. A. Goodman, et al. (2009), When Crises Collide: How Intimate Partner Violence and Poverty Intersect to Shape Women's Mental Health and Coping, 10(4) *Trauma Violence Abuse* 306 (2009); L. Corzine & J. Corzine, J., Deadly Connections: Culture, Poverty, and The Direction of Lethal Violence, 69(3) *Social Forces* 55 (1991).

⁷⁷ Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 449 (2000)

⁷⁸ Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 449 (2000).

⁷⁹ M. Janosz, et al., Are There Detrimental Effects of Witnessing School Violence in Early Adolescence? 43(6) *Journal of Adolescent Health* 600 (2008); N. Shields, K. Nadasen & L. Pierce, L. (2008). The Effects of Community Violence on Children in Cape Town, South Africa, 32(5) *Child Abuse & Neglect* 589 (2008); P. J. Fowler, et al., Community Violence: A Meta-Analysis On The Effect of Exposure and Mental Health Outcomes of Children and Adolescents, 21(1) *Development & Psychopathology* 227 (2009); N. M. Malik, Exposure to Domestic and Community Violence in a Nonrisk Sample: Associations With Child Functioning, 23(4) *Journal of Interpersonal Violence* 490 (2008); W. Kliever & T. N. Sullivan, Community Violence Exposure, Threat Appraisal, and Adjustment in Adolescents, 37(4) *Journal of Clinical Child & Adolescent Psychology* 860 (2008).

⁸⁰ Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 458 (2000); Michael Lynch & Dante Cicchetti, An Ecological Transactional Analysis Of Children And Contexts: The Longitudinal Interplay Among Child Maltreatment, Community Violence, And Children's Symptomatology, 10 *Dev. Psychopathol* 235 (1998).

violence will take the life of a friend or loved one.”⁸¹ They may feel compelled to resort to violence to avoid being viewed as weak and being targeted by bullies or other violent community members.⁸² “They may turn to gangs or criminal activities due to despair and powerlessness, perpetuating a cycle of violence by inflicting violence on others and becoming targets for further violence or incarceration.”⁸³

Living in a community saturated with crime and violence may also negatively affect parents’ caretaking due to their own feelings of helplessness, fear, and grief. “Efforts to protect the child may be exhibited in authoritarian and restrictive parenting practices, as well as in certain precautions that may heighten the child’s anxiety.”⁸⁴ Other parents may yield to the sense of helplessness and cease any efforts to protect the child.

The Adverse Childhood Experiences (ACE) studies explored the link between a variety of negative events during childhood, including exposure to crime, and a host of health conditions in adulthood. The studies found a strong link between negative childhood experiences and a broad range of physical and mental health problems and premature death. Exposure to community violence was not included in the original ACE Studies. However, more recent studies have found strong and convincing evidence to suggest that exposure to community violence should be considered a new ACE category. This conclusion is based on the substantial association between this type of exposure and the same set of life-threatening health conditions outlined in the ACE studies.⁸⁵ Similar studies have also established a link between exposure to community crime and post-traumatic stress symptoms (PTSD) as well as chemical imbalances in the brain that affect

⁸¹ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 33 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>.

⁸² M. Janosz, et al., Are There Detrimental Effects of Witnessing School Violence in Early Adolescence? 43(6) *Journal of Adolescent Health* 600 (2008); N. Shields, K. Nadasen & L. Pierce, L. (2008). The Effects of Community Violence on Children in Cape Town, South Africa, 32(5) *Child Abuse & Neglect* 589 (2008).

⁸³ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 33 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; C. A. Taylor, et al., Cumulative Experiences of Violence Among High-Risk Urban Youth, 23(11) *Journal of Interpersonal Violence* 1618 (2008).

⁸⁴ Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 *Annu. Rev. Psychol.* 445, 452 (2000).

⁸⁵ Eunju Lee, Heather Larkin and Nina Esaki, Exposure to Community Violence as a New Adverse Childhood Experience Category: Promising Results and Future Considerations, 98 *Families in Society: The Journal of Contemporary Social Services* 69, 69 (2017); David Finkelhor, et al., A revised inventory of Adverse Childhood Experiences, 48 *Child Abuse & Neglect* 13 (2015).

development and function.⁸⁶ Some studies go as far as showing that even community violence that children do not witness in person can negatively affect their attentional abilities and cognitive performance.⁸⁷

Parental Victimization

When the child's parent is a victim of a violent crime, the child is often affected in some way by proxy. Unlike children exposed to family crime and violence, children under this category experience harm even though they do not perceive the commission of a crime through their own senses and are not considered witnesses to the crime against the parent. "Simply put, the well-being of a child is inextricably linked to the well-being of the adults in his or her life", and hence if caregivers are victims of violence, this also impacts the children.⁸⁸ The most extreme scenario of parental victimization is homicide cases, where a child loses a parent or caregiver to crime. The more common cases are of parents who have experienced violent victimization in childhood or adulthood, and suffer harmful implications as a result, with a spillover effect to their children.⁸⁹ The effect of parental victimization is found to be most severe when the parent does not receive treatment and services to facilitate recovery.⁹⁰

Victimized parents have an increased probability of suffering from a range of mental health problems, including emotional deficiencies, depression, and low self-esteem. Poorer state of

⁸⁶ Shakira Franco Suglia, et al., Posttraumatic Stress Symptoms Related to Community Violence and Children's Diurnal Cortisol Response in an Urban Community-Dwelling Sample, 17 *Int. J. Behav. Med.* 43 (2010); Linda N. Freeman, Hartmut Mokros & Elva O. Poznanski, Violent Events Reported By Normal Urban School-Aged Children: Characteristics And Depression Correlates, 32(2) *J Am Acad Child Adolesc Psychiatry* 419 (1993); Pedro Martinez & John E. Richters, The NIMH Community Violence Project: II. Children's Distress Symptoms Associated With Violence Exposure, 56(1) *Psychiatry* 22 (1993); James J. Mazza & William M. Reynolds, Exposure To Violence In Young Innercity Adolescents: Relationships With Suicidal Ideation, Depression, And PTSD Symptomatology, 27(3) *J Abnorm. Child Psychol.* 203 (1999); Mary Schwab-Stone, et al., No Safe Haven II: The Effects Of Violence Exposure On Urban Youth, 38(4) *J Am Acad. Child Adolesc. Psychiatry* 359 (1999).

⁸⁷ Patrick T. Sharkey, et al., The Effect of Local Violence on Children's Attention and Impulse Control, 102(2) *American Journal of Public Health* 2287 (2012); Patrick T. Sharkey, The acute effect of local homicides on children's cognitive performance, 107(26) *PNAS* 11733 (2010).

⁸⁸ Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 110 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>;

⁸⁹ Jennie G. Noll, et al. The Cumulative Burden Borne By Offspring Whose Mothers Were Sexually Abused As Children: Descriptive Results From A Multigen-Erational Study, 24(3) *Journal of Interpersonal Violence* 424 (2009); Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 31 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

⁹⁰ Howard Dubowitz, et al., Type and Timing of Mothers' Victimization: Effects on Mothers and Children, 107 *Pediatrics* 728 (2001); Cindy E. Weisbart, et al., Child and Adult Victimization: Sequelae for Female Caregivers of High-Risk Children, 13(3) *Child Maltreatment* 235 (2008).

physical health was also found in victimized, in comparison to non-victimized, caregivers.⁹¹ Some evidence shows that victimization may also affect parenting skills and the interaction between parent and child.⁹² Survivors of victimization may have difficulties establishing clear generational boundaries with their children, may be over-permissive as parents, or conversely exhibit restrictive parenting practices, and be more inclined to use harsh physical discipline.⁹³

Studies show that when experiencing crime-induced trauma, a parent's ability to play a stable, consistent role in the child's life and, therefore, to support the child, may be compromised.⁹⁴ Furthermore, victimization causes parents themselves to be numbed, frightened, and depressed, unable to deal with their own trauma and/or grief, and thus they may encounter difficulties in being emotionally available, sensitive, and responsive to their children.⁹⁵ A victimized parent who is depressed or overwhelmed may have difficulty

⁹¹ Cindy E. Weisbart, et al., Child and Adult Victimization: Sequelae for Female Caregivers of High-Risk Children, 13(3) Child Maltreatment 235 (2008).

⁹² Heidi N. Bailey, et al., The Impact Of Childhood Maltreatment History On Parenting: A Comparison Of Maltreatment Types And Assessment Methods, 36(3) Child Abuse & Neglect 236 (2012); Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 32-33 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; P. T. Davies, et al., A Process Analysis of The Transmission of Distress From Interparental Conflict to Parenting: Adult Relationship Security As An Explanatory Mechanism, 45(6) Developmental Psychology 1761 (2009); Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 Child Abuse & Neglect 797, 800-801 (2008).

⁹³ David DiLillo, Parenting Characteristics of Women Reporting a History of Childhood Sexual Abuse, 8 Child Maltreatment 319 (2003); Richard Thompson, Mothers' Violence Victimization and Child Behavior Problems: Examining the Link, 77 American Journal of Orthopsychiatry 306 (2007); Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 31 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; Carol Cooney, Battered Mothers Who Physically Abuse Their Children, 9(8) Journal of Interpersonal Violence 943 (2004); George W. Holden, Parenting Behaviour And Beliefs Of Battered Women, In Children Exposed To Marital Violence: Theory, Research, And Applied Issues (George W. Holden, Robert A. Geffner & Ernest N. Jouriles eds., 1998); Gayla Margolin and Elana B. Gordis, The Effects Of Family And Community Violence On Children, 51 Annu. Rev. Psychol. 445, 452 (2000).

⁹⁴ Joy D. Osofsky, The Impact of Violence on Children, 9 DOMESTIC VIOLENCE AND CHILDREN 33, 40 (1999); Kihyun Kim, Penelope K. Trickett & Frank W. Putnam, Childhood Experiences Of Sexual Abuse And Later Parenting Practices Among Non-Offending Mothers of Sexually Abused And Comparison Girl, 34(8) Child Abuse & Neglect 610 (2010); E. Buchbinder, Motherhood Of Battered Women: The Struggle For Repairing The Past, 23(3) Clinical Social Work Journal 307 (2004); Alytia A. Levendosky & S. A. Graham-Bermann, Parenting In Battered Women: The Effects Of Domestic Violence On Women And Their Children, 16(2) Journal of Family Violence 171(2001); Jennifer E. McIntosh, Thought In The Face Of Violence: A Child's Need, 26 Child Abuse and Neglect 229 (2002).

⁹⁵ Joy D. Osofsky, The Impact of Violence on Children, 9 DOMESTIC VIOLENCE AND CHILDREN 33 40-1 (1999); Melanie Marysko, et al., History Of Childhood Abuse Is Accompanied By Increased Dissociation in Young Mothers Five Months Postnatally, 43(2) Psychopathology 104 (2010); George W. Holden, Children Exposed To Domestic Violence And Child Abuse: Terminology And Taxonomy, 6(3) Clinical Child and Family Psychological Review

meeting young children's need for structure or managing their developmental inability to understand and control their own emotions, thus impacting children's experience of emotional expression.⁹⁶ The quality of attachment between parent and child has also been found to be affected.⁹⁷ A victimized parent, particularly in cases of ongoing victimization, may be "living in constant fear, they may deny their children normal developmental transitions and the sense of basic trust and security that is the foundation of healthy emotional development."⁹⁸

Due to these factors, parental victimization has considerable detrimental consequences to child development, outcomes, behavior, and the child's relationship with the parent, even when the child is not aware of, or directly exposed to, the criminal act committed against the parent.

Parental Incarceration

Another form of indirect exposure to crime occurs when a child is separated from a primary caregiver as a result of incarceration. Children are affected by the incarceration of either parent, but they typically experience greater harm when their mother is imprisoned due to the central role a mother often plays in the life of a young child.⁹⁹ Incarceration of a parent normally causes major negative economic, social and psychological consequences to the child, and may have life-long repercussions.

When the incarcerated parent is the primary caregiver, the family's life is fundamentally disrupted. The child is usually uprooted, and may be separated, not only from the incarcerated

151(2003); Alytia A. Levendosky & Sandra A. Graham-Bermann, The Moderating Effects Of Parenting Stress On Children's Adjustment In Woman-Abusing Families, 13(3) *Journal of Family Violence* 383 (1998).

⁹⁶ Jeffrey L. Edleson, Children's Witnessing Of Adult Domestic Violence, 14(8) *Journal of Interpersonal Violence* 839 (1999).

⁹⁷ Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 801 (2008); Alytia A. Levendosky, et al., The Impact Of Domestic Violence On The Maternal-Child Relationship And Preschoolage Children's Functioning, 17(3) *Journal of Family Psychology* 275 (2003). See also: Hedy Cleaver, Ira Unell, & Jane Aldgate, Children's Needs—Parenting Capacity, The Impact Of Parental Mental Illness, Problem Alcohol And Drug Use, And Domestic Violence On Children's Development (1999).

⁹⁸ Alytia A. Levendosky, Shannon M. Lynch, & Sandra A. Graham-Bermann, Mothers' Perceptions Of The Impact Of Woman Abuse On Their Parenting, 6 *Violence Against Women* 248(2000); Alytia A. Levendosky & Sandra A. Graham-Bermann, Parenting In Battered Women: The Effects Of Domestic Violence On Women And Their Children, 16(2) *Journal of Family Violence* 171(2001)

⁹⁹ Tiffany Conway and Rutledge Q. Hutson, Parental Incarceration: How to Avoid a "Death Sentence" for Families, 41(3-4) *Clearinghouse Review Journal of Poverty Law and Policy* 212, 212 (Jul.-Aug. 2007). Available at: <http://www.clasp.org/admin/site/publications/files/0396.pdf>

parent, but also from his/her siblings, other relatives, and friends. The child is at risk of being moved frequently among caregivers and even becoming a ward of the state.¹⁰⁰ Maintaining a close relationship and regular contact with the incarcerated parent over time is a significant challenge.¹⁰¹ Even in cases where a child is present at the time of arrest, “only 42% of officers inquire about that child’s care; nearly one third will request that Child Protective Services (CPS) take custody of the child. For law enforcement agencies who do assume responsibility for a minor child upon the arrest of a sole caretaker, about half determine where the child is placed without involving CPS.”¹⁰² Unfortunately, even when officials request a recommendation for potential caregivers from the arrested parent, many are not willing or able to offer a sound placement recommendation.¹⁰³

When the child is too young to fully understand the reasons for the parent’s “disappearance”, destructive feelings of self-blame and anger can emerge. The remaining caregiver is often unable to render necessary support and to find a suitable way to convey the information to the child, in an age-appropriate manner.. Economic hardship is another likely possibility, due to the added legal expenses involved and the loss of income or social benefits.¹⁰⁴ The child left behind is also subjected to negative stigma and shame associated with parental incarceration.¹⁰⁵

Parental incarceration is one of the Adverse Childhood Experiences (ACE) empirically found to have strong impact on adult health status and significant association with multiple risk behaviors

¹⁰⁰ Donna K. Metzler, *Neglected by the System: Children of Incarcerated Mothers*, 82 ILL. B.J. 428, 430 (1994).

¹⁰¹ See detailed discussion in: Michal Gilad & Tal Gat, *U.S. v. My Mommy: Evaluation of Prison Nurseries as a Solution for Children of Incarcerated Women*, 37 N.Y.U. REV. L. & SOC. CHANGE 371 (2013), available at: <http://socialchangenyu.files.wordpress.com/2013/05/us-v-my-mommy2.pdf>

¹⁰² Nancy G. La Vigne, Elizabeth Davies & Diana Brazzell, *Broken Bonds: Understanding and Addressing the Needs of Children with Incarcerated Parents*, Urban Institute Justice Policy Center Report (February 2008), available at: <https://www.urban.org/sites/default/files/publication/31486/411616-Broken-Bonds-Understanding-and-Addressing-the-Needs-of-Children-with-Incarcerated-Parents.PDF>

¹⁰³ Nancy G. La Vigne, Elizabeth Davies & Diana Brazzell, *Broken Bonds: Understanding and Addressing the Needs of Children with Incarcerated Parents*, Urban Institute Justice Policy Center Report (February 2008), available at: <https://www.urban.org/sites/default/files/publication/31486/411616-Broken-Bonds-Understanding-and-Addressing-the-Needs-of-Children-with-Incarcerated-Parents.PDF>

¹⁰⁴ Donald Braman, *Doing Time On The Outside: Incarceration And Family Life In Urban America* (2004); Nell Bernstein, *All Alone In The World: Children Of The Incarcerated* 109-42 (2005)

¹⁰⁵ See; Sarah Abramowicz, *Rethinking Parental Incarceration*, 82 U. COLO. L. REV. 793 (2011); Denise Johnston, *Services For Children of Incarcerated Parents*, 50 FAM. CT. REV. 91 (2012); Donna K. Metzler, *Neglected By The System: Children of Incarcerated Mothers*, 82 ILL. B.J. 428 (1994); Julie Poehlmann, *Children of Incarcerated Mothers And Fathers*, 24 WIS. J.L. GENDER & SOC'Y 331 (2009).

and leading causes of premature death.¹⁰⁶ Additional studies indicate that the separation of a young child from a primary caregiver due to incarceration is linked with a host of adverse symptoms, including impaired ability to sympathize or show concern for others, aggression, and anger;¹⁰⁷ developmental and behavioral problems; sleeping, eating, or attention disorders; problems with social adaptation; and manifestation of sexually promiscuous behavior.¹⁰⁸

Life outcomes were also found to be affected by parental incarceration, including delays in educational development and achievement;¹⁰⁹ risk for homelessness;¹¹⁰ greater likelihood to develop addiction to drugs or alcohol;¹¹¹ and to engage in criminal activity.¹¹² A recent

¹⁰⁶ Vincent J. Felitti et al., Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study, 14(4) *Am J Prev Med* 245, 251 (1998); Leah K. Gilbert et al., Childhood Adversity and Adult Chronic Disease: An Update from Ten States and the District of Columbia, 48(3) *Am J Prev Med* 345, 346 (2015).

¹⁰⁷ Christopher Wildeman, Paternal Incarceration and Children's Physically Aggressive Behaviors: Evidence from the Fragile Families and Child Wellbeing Study, 89 *Soc. Forces* 285 (2010)

¹⁰⁸ REBECCA PROJECT FOR HUMAN RIGHTS & NATIONAL WOMEN'S LAW CENTER, *supra* note 13, at 13; Jessica Y. Kim, In-Prison Day Care: A Correctional Alternative for Women Offenders, 7 *CARDOZO WOMEN'S L.J.* 221, 228 (2001); Leda M. Pojman, Cuffed Love: Do Prison Babies Ever Smile?, 10 *BUFF. WOMEN'S L. J.* 46, 62 (2002); John J. Sheridan, Inmates May be Parents, Too, *CORRECTIONS TODAY*, Aug. 1996, at 100; Joseph Murray et al., Children's Antisocial Behavior, Mental Health, Drug Use, and Educational Performance After Parental Incarceration: A Systematic Review and Meta-analysis, 138 *Psychol. Bull.* 175 (2012); Sara Wakefield & Christopher Wildeman, Mass Imprisonment and Racial Disparities in Childhood Behavioral Problems, 10 *Criminology & Pub. Pol'y* 793 (2011)

¹⁰⁹ Joseph Murray et al., Children's Antisocial Behavior, Mental Health, Drug Use, and Educational Performance After Parental Incarceration: A Systematic Review and Meta-analysis, 138 *Psychol. Bull.* 175 (2012); Holly Foster & John Hagan, Incarceration and Intergenerational Social Exclusion, 54 *Soc. Probs.* 399, 416-17 (2007); Ann M. Stanton, When Mothers Go to Jail 91- 93 (1980); Barbara Bloom & David Steinhart, Nat'l Council on Crime & Delinquency, Why Punish the Children? (1993); Joseph Murray & David P. Farrington, The Effects of Parental Imprisonment on Children, 37 *Crime & Just.* 133, 162 (2008); Rucker C. Johnson, Ever-Increasing Levels of Parental Incarceration and the Consequences for Children, in *Do Prisons Make Us Safer? The Benefits and Costs of the Prison Boom* 177, 196 (Steven Raphael & Michael A. Stoll eds., 2009); Ashton D. Trice & JoAnne Brewster, The Effects of Maternal Incarceration on Adolescent Children, 19 *J. Police & Crim. Psychol.* 27, 31

(2004); Holly Foster & John Hagan, Maternal And Paternal Imprisonment And Children's Social Exclusion In Young Adulthood, 105 *J. Crim. L. & Criminology* 387 (2015).

¹¹⁰ Holly Foster & John Hagan, Incarceration and Intergenerational Social Exclusion, 54 *Soc. Probs.* 399, 413 (2007); Christopher Wildeman, Parental Incarceration, Child Homelessness, and the Invisible Consequences of Mass Imprisonment, 651 *Annals. Am. Acad. Pol. & Soc. Sci.* 74, 84-86 (2014).

¹¹¹ Joseph Murray et al., Children's Antisocial Behavior, Mental Health, Drug Use, and Educational Performance After Parental Incarceration: A Systematic Review and Meta-analysis, 138 *Psychol. Bull.* 175 (2012); Michael E. Roettger et al., Paternal Incarceration and Trajectories of Marijuana and Other Illegal Drug Use from Adolescence into Young Adulthood: Evidence from Longitudinal Panels of Males and Females in the United States, 106 *Addiction* 121, 126 (2011);

longitudinal study also found a link between parental incarceration during childhood and social exclusion in adulthood. The variable of social exclusion was composed of personal income, household income, perceived socioeconomic status, and feelings of powerlessness.¹¹³ The study found that “both maternal and paternal incarceration significantly contribute to young adult social exclusion among offspring in their late twenties to early thirties.”¹¹⁴

Children suffering from parental incarceration are often referred to as the “invisible victims” of crime, as they are forced to bear the consequences of their parents’ criminal behavior and the system’s inability, or possibly unwillingness, to address their needs and mitigate the displayed harms.

Child Witnesses

An additional category of exposure that was examined for inclusion under the Triple-C Impact sphere was child witnesses, who provide testimony before the criminal justice system (either in court or other law enforcement agencies). Some evidence exists of possible harm experienced by this category of children, especially when adequate services and support that target the unique developmental needs of this age group are not available.¹¹⁵

¹¹² Michael E. Roettger & Raymond R. Swisher, Associations of Fathers' History of Incarceration with Sons' Delinquency and Arrest Among Black, White, and Hispanic Males in the United States, 49 *Criminology* 1109 (2011);

¹¹³ Holly Foster & John Hagan, Maternal And Paternal Imprisonment And Children’s Social Exclusion In Young Adulthood, 105 *J. Crim. L. & Criminology* 387 (2015).

¹¹⁴ Holly Foster & John Hagan, Maternal And Paternal Imprisonment And Children’s Social Exclusion In Young Adulthood, 105 *J. Crim. L. & Criminology* 387, 387 (2015). (The study also found that educational interventions that increase successful completion of college to be a mediator of the exclusionary effects of maternal and paternal incarceration).

¹¹⁵ Tanya Asim Cooper, Sacrificing the Child to Convict the Defendant: Secondary Traumatization of Child Witnesses by Prosecutors, Their Inherent Conflict of Interest, and the Need for Child Witness Counsel, 9 *Cardozo Pub. L. Pol’y & Ethics J.* 239 (2011); Janet Leach Richards, Protecting the Child Witness in Abuse Cases, 34 *Family Law Quarterly* 393 (2000); Robert H. Pantell, Policy Statement: The Child Witness in the Courtroom, 139(3) *PEDIATRICS* 2017, available at:

<http://pediatrics.aappublications.org/content/pediatrics/early/2017/02/16/peds.2016-4008.full.pdf>; Jodi A. Quas & Mariya Sumaroka, Consequences Of Legal Involvement On Child Victims Of Maltreatment, in *Children's Testimony: A Handbook of Psychological Research and Forensic Practice* 323 (Michel Lamb, et al., eds. 2012); Jodi A. Quas, et al., Childhood Sexual Assault Victims: Long Term Outcomes After Testifying In Criminal Court, 70(2) *Monographs of the Society for Research in Child Development* 1 (2005); Gail S. Goodman, et al., Testifying In Criminal Court: Emotional Effects On Child Sexual Assault Victims, 57(5) *Monographs of the Society for Research in Child Development* 1(1992); US Department of Justice, Office of Justice Programs, Attorney General Guidelines For Victim And Witness Assistance (2005), available at: www.justice.gov/sites/default/files/olp/docs/ag_guidelines2012.pdf

Court testimony is an extremely stressful, frightening and formidable event, especially for a vulnerable young child. The child is placed in the unfamiliar and intimidating environment of a courtroom, and asked to participate in a process that is foreign and perplexing. S/he has to face the defendant, who the child often perceives as a threatening and dangerous figure. The child is required to answer difficult questions in public, and to go through harsh questioning by unsympathetic strangers. The child's truthfulness is repeatedly doubted and questioned throughout the process, and this is often perceived as a humiliating experience. Moreover, the child has to repeatedly re-live the traumatic event s/he witnessed through recurring interrogations by law enforcement and in court. When the defendant is known or related to the child witness, further difficulties, including intense guilt and loyalty conflicts, may arise. The multitude of stressors involved in this experience can trigger extreme levels of anxiety and psychological strain, often referred to as "secondary victimization."¹¹⁶

Nevertheless, the documented level of harm caused as a result of court testimony does not appear to meet the threshold set by the previously discussed categories in this section. Moreover, there is contrary evidence regarding the possible benefits that providing a testimony can generate for the child, and its function in facilitating recovery from crime-induced trauma.¹¹⁷ Lastly, court witnessing is a form of crime exposure that very rarely stands alone. Children who provide testimony will normally also fall under one of the other Triple-C categories, and thus will still be covered.

Under these circumstances, it was decided that this category of crime exposure should NOT be included under the Triple-C Impact at this point in time. This decision may change in the future, if new empirical evidence emerges to support a weightier severity of harm that ought to be addressed independently from the other Triple-C Impact categories.

Relying on this comprehensive review of literature, it was determined that the Triple-C Impact concept should focus on five categories of childhood crime exposure supported by scientific

¹¹⁶ Tanya Asim Cooper, *Sacrificing the Child to Convict the Defendant: Secondary Traumatization of Child Witnesses by Prosecutors, Their Inherent Conflict of Interest, and the Need for Child Witness Counsel*, 9 *Cardozo Pub. L. Pol'y & Ethics J.* 239 (2011).

¹¹⁷ Robert H. Pantell, *Policy Statement: The Child Witness in the Courtroom*, 139(3) *PEDIATRICS* 2017, available at: <http://pediatrics.aappublications.org/content/pediatrics/early/2017/02/16/peds.2016-4008.full.pdf>; Jodi A. Quas & Gail S. Goodman, *Consequences Of Criminal Court Involvement For Child Victims*, 18(3) *Psychol Public Policy Law* 392 (2012).

findings: direct victimization, witnessing family crime, witnessing community crime, parental victimization, and parental incarceration. We must also remember that the aforementioned categories are not mutually exclusive. It is often the case that children experience poly-victimization, and suffer from multiple forms of direct or indirect crime exposure. Such cumulative exposure was found to further aggravate the harmful impact on the child.¹¹⁸ As science evolves and advances, this list may change to adapt to new findings, relying on similar harm-based criteria.

However, it is vital to keep in mind that like any social science, and even medical research, all the cited studies are affected by a range of limitations and methodical complexities.¹¹⁹ These may be particularly pronounced in this area of study, due to the frequent co-occurrence of childhood exposure to crime with other serious life adversities, and the commonality of experiencing more than one of the Triple-C categories. Yet, while we must always remain conscious and mindful of these constraints and the improbability of absolute accuracy in results, the pronounced risk to children affected by the Triple-C Impact established in the existing empirical studies outlined above must not be ignored or discounted.

Once the problem is named and its scope and boundaries are better defined, we can proceed to examine the available statutory responses and policy-based solutions, and to assess their sufficiency in addressing the problem.

Section III: Gauging the Gap - Results of the 50-State Survey

A primary factor influencing the level of harm caused by the Triple-C Impact is the manner in which affected children are addressed – identified, managed, and treated.¹²⁰ The Attorney

¹¹⁸ David Finkelhor, Richard K. Ormrod & Heather A. Turner, Poly-Victimization: A Neglected Component In Child Victimization Trauma, 31 *Child Abuse & Neglect* 7 (2007); David Finkelhor, et al., Pathways To Poly-Victimization, 14(4) *Child Maltreatment* 316 (2009); Heather A. Turner, Richard K. Ormrod & David Finkelhor, Poly-Victimization in a National Sample of Children and Youth, 38(3) *American Journal of Preventive Medicine* 323 (2010).

¹¹⁹ Some examples for the common limitations and methodological difficulties are described here: Stephanie Holt, Helen Buckley & Sadhbh Whelan, The Impact of Exposure To Domestic Violence On Children And Young People: A Review of The Literature, 32 *Child Abuse & Neglect* 797, 798-9 (2008).

¹²⁰ S. J. Ko, et al., Creating trauma-informed systems: Child welfare, education, first responders, health care, juvenile justice, 39(4) *Professional Psychology: Research and Practice* 396 (2008); J. A. Cohen, A. P. Mannarino &

General Task Force on Children Exposed to Violence, which covered a few of the Triple-C Impact categories in its final report, has repeatedly emphasized that “[c]hildren exposed to violence can heal if we identify them early and give them specialized services, evidence-based treatment, and proper care and support¹²¹.... Without services or treatment, even children who appear resilient and seem to recover from exposure to violence still bear emotional scars that may lead them to experience these same health and psychological problems years or decades later.”¹²² Furthermore, the mere lack of response can further compound the caused harm by fostering a sense of isolation and betrayal, as the child acknowledges that “no one takes notice or offers protection, justice, support, or help.”¹²³

Yet, it is well documented that despite the strong association between exposure to violence and harm to the child, Triple-C affected children are habitually ignored.¹²⁴ The Task Force has

S. Iyengar, Community treatment of posttraumatic stress disorder for children exposed to intimate partner violence: a randomized controlled trial, 165(1) *Archives of Pediatric and Adolescent Medicine* 16 (2011); Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 66 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; C. S. Widom, S. J. Czaja & M. A. Dutton, Childhood victimization and lifetime revictimization, 32(8) *Child Abuse & Neglect* 785 (2008); Loeb, T. B., et al.; Associations between child sexual abuse and negative sexual experiences and revictimization among women: Does measuring severity matter? 35(11) *Child Abuse & Neglect* 946 (2011); S. E. Ullman, C. J. Najdowski & H. H. Filipas, Child sexual abuse, post-traumatic stress disorder, and substance use: predictors of revictimization in adult sexual assault survivors, 18(4) *Journal of Child Sexual Abuse* 367 (2009); T. Lindhorst, et al., Mediating pathways explaining psychosocial functioning and revictimization as sequelae of parental violence among adolescent mothers, 79(2) *American Journal of Orthopsychiatry* 181 (2009); J. D. Fargo, Pathways to adult sexual revictimization: direct and indirect behavioral risk factors across the lifespan, 24(11) *Journal of Interpersonal Violence* 1771 (2009); J. E. Barnes, et al., Sexual and physical revictimization among victims of severe childhood sexual abuse, 33(7) *Child Abuse & Neglect* 412 (2009).

¹²¹ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 5 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹²² Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 12 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹²³ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 30 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹²⁴ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 65 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; U.S. Department of Health and Human Services Administration for Children and Families Children’s Bureau, *Child Maltreatment 2010* (2010), <http://archive.acf.hhs.gov/programs/cb/pubs/cm10/cm10.pdf>; U.S. Health Resources and Services Administration. *Child Health USA 2011* (2011),

<http://mchb.hrsa.gov/chusa11/more/downloads/pdf/c11.pdf>; C. Ghosh Ippen, et al., Traumatic and stressful events in early childhood: can treatment help those at highest risk? , 35(7) *Child Abuse & Neglect* 504 (2011); J. A. Cohen, A. P. Mannarino & S. Iyengar, Community treatment of posttraumatic stress disorder for children exposed to intimate partner violence: a randomized controlled trial, 165(1) *Archives of Pediatric and Adolescent Medicine* 16 (2011); R. Wells, et al., Health service access across racial/ethnic groups of children in the child welfare system, 33(5) *Child Abuse & Neglect* 282 (2009); D. J. Kolko, et al., Community treatment of child sexual abuse: a survey of practitioners in the National Child Traumatic Stress Network, 36(1) *Administration and Policy in Mental Health* 37 (2009); J. A. Fairbank & D. W. Fairbank, Epidemiology of child traumatic stress, 11(4) *Current Psychiatry Reports*

recognized that few of the children affected by crime exposure are effectively identified.¹²⁵ Furthermore, “[t]he majority of children in our country who are identified as having been exposed to violence never receive services or treatment that effectively help them to stabilize themselves, regain their normal developmental trajectory, restore their safety, and heal their social and emotional wounds.”¹²⁶

Exposed children are considered “the “silent” or “hidden” victims of violence because their presence is often overlooked by the parents/caregivers or goes unknown by observers and professionals.”¹²⁷ Even in criminal cases that are reviewed by a multitude of professionals and service providers, including judges, law enforcement agents, prosecutors, and case workers, the situation of the children affected by the Triple-C Impact is often overlooked, and few of the professionals involved inquire about the affected children in their caseload.¹²⁸

Studies show that professionals and service providers frequently fail to recognize the connection between exposure to crime and harm to children, and responding agencies and institutions do not have proper protocols and procedures in place to address these children.¹²⁹ These findings are also supported by our survey results, in which less than a handful of reported having specific

289 (2009); P. T. Yanos, S. J. Czaja & C. S. Widom, A prospective examination of service use by abused and neglected children followed up into adulthood, 61(8) *Psychiatric Services* 796 (2010).

¹²⁵ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 83 & 172 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; See also: David Finkelhor et al., Children’s Exposure to Violence: A Comprehensive National Survey, *Juvenile Justice Bulletin* 9 (Oct. 2009), available at: <https://www.ncjrs.gov/pdffiles1/ojdp/227744.pdf>

¹²⁶ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 12 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹²⁷ The National Child Traumatic Stress Network (NCTSN), Identifying Children Affected by Domestic Violence, <http://www.nctsn.org/content/identifying-children-affected-domestic-violence>

¹²⁸ Susan Schechter & Jeffrey L. Eldelson, Open Society Institute’s Center on Crime, Communities & Culture, Domestic Violence & Children: Creating A Public Response 3 (2000); The National Child Traumatic Stress Network (NCTSN), Identifying Children Affected by Domestic Violence, <http://www.nctsn.org/content/identifying-children-affected-domestic-violence>; Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 70 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹²⁹ For example, a study of pediatric response to child exposure to domestic violence revealed that only 4.2% of the surveyed pediatric emergency departments have a protocol in place for responding to such cases.¹²⁹ Another study conducted by the American Prosecutors Research Institute has found that less than half of the prosecution offices responding to the study survey were aware of protocols directing law enforcement officers to ask about child victims or witnesses when investigating domestic violence reports. Susan Schechter & Jeffrey L. Eldelson, Open Society Institute’s Center on Crime, Communities & Culture, Domestic Violence & Children: Creating A Public Response 7 (2000); Debra Whitcomb, Children and Domestic Violence: The Prosecutor’s Response (2004), <https://www.ncjrs.gov/pdffiles1/nij/199721.pdf>; R. J. Wright, et al., Response of Battered Mothers in the Pediatric Emergency Department: A Call For Interdisciplinary Approach to Family Violence, 99 *Pediatrics* 186 (1997).

policies or protocols aimed to facilitate identification of affected children. Even when such protocols were available, they focus exclusively on children exposed to family violence, and do not cover any of the remaining Triple-C Impact categories.¹³⁰

Accordingly, in order to truly comprehend the problem before us, it is vital to understand what is missing from our existing response to the problem. Thus far, no study has attempted to empirically map the standing statutory availability in this field, and there is no systematic knowledge on the manner in which state laws and policies address children affected by the Triple-C Impact.

To fill the gap and gain an understanding of the root causes of the problem, we designed a comprehensive 50-state survey. At the onset, we hypothesized that the existing deficient response to affected children stems from statutory lacunas, narrow statutory definitions and restrictive eligibility criteria that exclude access to services and resources from many categories of exposed children. This hypothesis was based on theories in the literature and policy reports.¹³¹ However, our results, to a large extent, indicated differently.

The survey gathered data on statutory eligibility criteria for therapeutic services and resources for children directly and indirectly exposed to crime in each of the fifty states and the District of Columbia. It addressed all five categories of the Triple-C Impact: direct child victims;¹³² children exposed to family violence;¹³³ children exposed to community violence;¹³⁴ children with a victimized parent;¹³⁵ children affected by parental incarceration.¹³⁶ The survey aimed to answer fundamental questions such as: What resources are statutorily available on the state level? Which

¹³⁰ Full survey results are archived with the author.

¹³¹ Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; Susan Schechter & Jeffrey L. Eldelson, Open Society Institute's Center on Crime, Communities & Culture, Domestic Violence & Children: Creating A Public Response 3 (2000); The National Child Traumatic Stress Network (NCTSN), Identifying Children Affected by Domestic Violence, <http://www.nctsn.org/content/identifying-children-affected-domestic-violence>.

¹³² Children who had a crime committed against their own person.

¹³³ Witnessing crime in the home or among family members, when the child is not physically harmed (most common are cases of domestic violence or inter-familial sexual abuse).

¹³⁴ Witnessing crime outside the home (e.g. neighborhood or school) committed among non-relatives, when the child is not physically harmed.

¹³⁵ Children with a parent or a primary caregiver who was a victim of a violent crime, where the child was not a witness to the crime, but was affected in some way by proxy.

¹³⁶ Children with a parent or primary caregiver who is incarcerated in a county, state or federal correctional facility.

state agencies are charged with responding to affected children? Are there mechanisms to identify affected children? Which categories of children are statutorily eligible for services and resources?

The survey was conducted through email questionnaires¹³⁷ that were sent to broad range of state agencies (e.g., victim compensation agency; victim assistance office; state police; state and district attorney office; department of children & family services; department of human services; department of corrections, etc.),¹³⁸ as well as nongovernmental organizations that serve children affected by crime. Responses were obtained from 50 out of the 51 jurisdictions, amounting to a 98% response rate. Only the State of Maryland refused to provide information per our survey questionnaire.¹³⁹ All state responses were cross-referenced, and verified against the governing statutes, administrative rules, case law, agency guidelines and internal policies. The results were logged in descriptive form and then translated into numerical data and analyzed.¹⁴⁰

We created the Triple-C Impact Index (TCII), which measures the degree of state response to the problem. The Index assigns each state a score between 0-6,¹⁴¹ depending on the number of Triple-C Impact categories that were reported to be officially recognized by state law, and statutorily eligible for therapeutic services or compensation. It should be clarified that only services and resources that are clearly mandated by law, and target the specific population of children affected by each of the Triple-C Impact categories were included in the survey. Some additional services may be available by grass root and civil society organizations or privately under medical insurance of Medicaid/Medicare/CHIP coverage. Child Protective Services also

¹³⁷ Phone interviews and follow-ups were also conducted as needed to supplement electronic correspondence.

¹³⁸ Although some references were made, the survey did not directly cover services provided by the general public school and public health system or through medical insurance. It also did not cover services by Child Protective Services, which are exclusive for children facing risk from a caregiver, rather than the general population of children.

¹³⁹ Interview with D. Scott Beard, Executive Director, Criminal Injuries Compensation Board, Department of Public Safety and Correctional Service (March 8, 2017) (on file with the author).

¹⁴⁰ Under each category a state could be scored either 1 or 0. 0 was logged when no eligibility for therapeutic was available in any form. 1 was logged when some degree of eligibility to therapeutic services or resources was available. The states were given the “benefit of the doubt” and received a 1 score even when available services were minimal and eligibility criteria was limited and restricting. Each state received a total score between 0-6 accordingly.

¹⁴¹ The Index covers the 5 Triple-C Impact Categories (Direct victimization – existence of a specific Child Victims act or provision; exposure to family crime; exposure to community crime; parental victimization; parental incarceration). A 6th point is awarded if the state collects statistical data on the parental status of inmates under the custody of the state’s department of corrections.

provide some services to eligible children, but those are restricted only to children who face danger from their caregivers, rather than the entire group of affected children, and thus are excluded from the survey. In several states, some counseling services are available through the public school system, but these do not specifically target Triple-C Impact Children, and are often sporadically available, depending on the budget and discretion of each school district in the state.¹⁴²

The survey's outcomes were insightful and surprising. They largely refuted the original hypothesis, and directed attention to flaws in inter-agency coordination, extensive access barriers, ineffective utilization of resources, and insufficient account for the distinct needs of minor children. These crucial findings, outlined below, shine a bright light on potential solutions to the problems, and inform us on effective paths towards improving the way we address children suffering from the Triple-C Impact.

Survey Findings: Steps in the Right Direction

Despite the original hypothesis that children under most of the Triple-C Impact categories are not formally recognized by law, and thus are ineligible to receive services to facilitate their recovery, the survey painted a very different image. Encouragingly, it revealed a sizable prevalence of statutory recognition of many of the Triple-C Impact categories among states, with the marked exception of children affected by parental incarceration. It also found that many state laws, as well as agency guidelines, mandate eligibility for services and resources for exposed children.

Based on the states' responses, the average state TCII score was 2.5, indicating that most states recognized 2-3 of the Triple-C Impact Categories. Encouragingly, only one state, the state of Indiana, was awarded a TCII score of 0, for failing to provide any statutory recognition of the surveyed categories. No state reported recognition of all the Triple-C Impact categories. The highest TCII score in the dataset was awarded to the state of New York for recognizing 5 of the 6

¹⁴² In one case school based services were statutorily mandated to all school districts in the state, and eligibility criteria relied on the status of the child as affected by different categories of crime exposure. In this case the services and resources provided were included in the survey.

surveyed categories, excluding eligibility for services only for children affected by parental incarceration.¹⁴³

Among responding states, 45 (88.2%) reported that children exposed to family crime were formally recognized and statutorily eligible for counseling services, compensation or reimbursement. Only 5 states (9.8%) explicitly excluded eligibility for this group of children.¹⁴⁴ Thirty-one of the responding states (60.8%) recognized eligibility of children with a victimized parent, even when the child was not a witness to the criminal act. Twenty-two states (43.1%) had laws authorizing services and resources to children exposed to community crime.¹⁴⁵

Consistently excluded were children affected by parental incarceration, with only one state, the state of Vermont, reporting the availability of any statutory recourse to this group of vulnerable children.¹⁴⁶ Furthermore, it was discovered that the majority of states (58.8%) do not collect any systematic data on the parental status of inmates in correctional facilities, and therefore have no ability to identify or track children affected by parental incarceration.¹⁴⁷

State responses also reflected high levels of awareness of the issue of children indirectly exposed to crime and the short- and long-term harm they endure. This was especially evident in responses provided by State Victim Compensation agents. The survey results indicate that these agents make ongoing efforts to stretch the resources available to them and provide broad and inclusive interpretations to the governing laws, in order to grant assistance to as many affected children as possible.

Survey responses repeatedly included statements such as the one provided by the Alaska Violent Crime Compensation Board, maintaining that “[t]he Board takes the view that if there is domestic violence in the home, the child will be affected whether or not they are eye witnesses to

¹⁴³ A full summary table of state scores is available in the Appendix.

¹⁴⁴ Hawaii, Indiana, North Carolina, Rhode Island, and Wisconsin.

¹⁴⁵ Complete Survey data is archived with the author.

¹⁴⁶ It should be noted that in the state of Vermont therapeutic services to children with incarcerated parents are provided through the general behavioral health parity system, rather than a dedicated policy that specifically targets this group of children. However, having an incarcerated parent is a factor that is explicitly considered as part of the eligibility assessment. Thus, we considered Vermont as having statutory eligibility for services for children affected by parental incarceration. (Interview with Kim Bushey, Program Services Director, Vermont Department of Corrections (March 25, 2016) (on file with author)).

¹⁴⁷ Complete Survey data is archived with the author.

an actual physical altercation. So counseling would almost always be considered.”¹⁴⁸ In one case, a statutory provision was broadly interpreted in a manner that could even be presumed to exceed the legislature’s reasonable intent. In this case, a provision that explicitly provided compensation to relatives of “sexual assault victims” who require “counseling in order to better assist the victim in his recovery,”¹⁴⁹ was expanded through broad interpretation of the State Crime Victim Compensation Program to apply to relatives of victims of any crime.¹⁵⁰

These unexpected outcomes shed a positive light on the approach of key players in the system to the needs of children affected by the Triple-C Impact. The results clearly show that for most Triple-C categories, the primary cause for the existing ineffective state response to affected children is not the lack of statutory eligibility or narrow legal definitions. Consequently, the results significantly alter our perception of the problem’s framework, and mandate us to proceed with the quest for the actual causes elsewhere.

Room for Improvement:

Despite the positive highlights, the survey also uncovered a multitude of deficiencies and limitations. These findings provide indispensable directives in our search for the core of the problem.

Most evidently, the survey results reveal an unwarranted degree of disparity and inconsistency among, and even within, states when addressing the Triple-C Impact. Extreme differences were detected in the terminology used, the scope of the definitions provided, the agencies assigned to address each category of affected children, the level of accessibility to existing services, and the amount of information publicly available. On the national level, no methodical attempts for standardization, model policies, or guidelines for “best practices” in order to assure a minimum level of care were identified.

This lack of consistency and uniformity presents several fundamental challenges. From a research perspective, the use of inconsistent terminology and definitions makes it extremely difficult to investigate the Triple-C Impact problem in its entirety, to evaluate existing findings,

¹⁴⁸ Interview with Katherine Hudson, Executive Director, Alaska Violent Crimes Compensation Board (January 20, 2016)(on file with author).

¹⁴⁹ MO. REV. STAT. § 595.020.1(2)(a) (Supp. 1993).

¹⁵⁰ Interview with Susan Sudduth, MO Crime Victims’ Compensation Program (April 12, 2016)(on file with author).

gain a coherent understanding of the full scope of the problem, and gauge its social cost and effect.¹⁵¹ These constraints and limitations in the ability to conduct high-quality and reliable empirical studies are not confined to the academic arena, but directly affect our ability to devise effectual evidence-based solutions to the problem. Moreover, alongside the more academic-oriented challenges, substantial practical difficulties also emerge.

From the state's view point, any effort to devise a coordinated inter-agency response to the problem requires fluent communication amongst all the governmental and non-governmental stakeholders involved. When these bodies do not "speak the same language" in terms of the terminology used, division of labor, scope of responsibility and the expected standard of service and care, such efforts are doomed to failure. It also makes it nearly impossible to share information, develop inter-state collaborations, and benefit from experiences and lessons learned in other states. The survey presents strong evidence of this absence of coordination between the various agencies, organizations and service providers in the field. In fact, it depicts a picture of a system in which each player on the field rarely knows what the other is doing, let alone works in tandem with other players towards the common goal of assisting impacted children.

One critical component of the uncoordinated efforts and deficiencies in communication among relevant stakeholders is the gap in knowledge among such key players. The survey uncovered numerous examples across the nation where resources were statutorily available to affected children, but were not known to service providers and advocates who served these children, or even to government agencies entrusted with serving the relevant populations.

In the state of Kentucky for example, a representative of the Victim Compensation Board reported that pending documentation of a medical practitioner indicating a child was emotionally injured in relation to a crime, s/he would be considered for compensation and therapeutic services in cases of exposure to family crime, exposure to community crime, and parental victimization.¹⁵² On the contrary, a representative of a non-governmental youth advocacy organization in the state, serving children affected by the Triple-C Impact, responded that

¹⁵¹ On the issue of inconsistency in terminology see also: David Finkelhor, Prevalence Of Child Victimization, Abuse, Crime, And Violence Exposure, in *Violence Against Women and Children: Mapping The Terrains* (J.W White, et al. Eds.) 9, 9-13 (2011).

¹⁵² Interview with Lindsay Crawford, Policy Advisor / Interim SAEP Coordinator, Kentucky Crime Victims Compensation Board (February 3-4, 2016)(on file with author).

children under all three of the abovementioned categories “are not considered "victims of crime" and are not eligible for services/compensation.”¹⁵³

Similar trends were also detected among governmental agencies. In Nebraska, while a representative of the Victim Reparation Program confirmed that “children who witness family crime are eligible for compensation,”¹⁵⁴ a Victim Specialist with the office of the State Attorney General stated that she is “not familiar with any specific statutes or policies that provide for specific programming or services to children exposed to violence in their home”.¹⁵⁵ Similarly, in the state of Virginia, the director of the state Criminal Injuries Compensation Fund reported that “for counseling purposes, minor child witnesses of violence involving a caretaker are considered to be a primary victim” and therefore eligible for services.¹⁵⁶ Conversely, the Crime Victim Programs Manager at the Virginia Department of Justice asserted that “[a]s far as statutes or guidelines around eligibility for services to child witnesses to domestic violence, there are none.”¹⁵⁷

This state of affairs is particularly alarming in light of the fact that beyond the reasonable expectation that government agencies will work together in a cooperative and coordinated manner towards their common goals, non-governmental organizations and service providers who receive funds under the Victims of Crime Act (VOCA) are mandated to assist and inform their clients of eligibilities for victim compensation benefits.¹⁵⁸ These statutory obligations are unlikely to be fulfilled if relevant governmental agencies as well as funded service providers are not trained, educated and periodically informed on the rights and eligibilities of each and every category of impacted children.

¹⁵³ Interview with Shannon Moody, Policy Director, Kentucky Youth Advocates (February 1-2, 2016)(on file with author).

¹⁵⁴ Interview with Sher Schrader, Crime Victims’ Reparations Program, Nebraska Commission on Law Enforcement & Criminal Justice (February 5, 2016)(on file with author).

¹⁵⁵ Interview with Patricia L. Sattler, MSW, Victim/Witness Specialist, Nebraska Department of Justice, Attorney General Doug Peterson (February 10, 2016)(on file with author).

¹⁵⁶ Interview with Jack Ritchie, Director, Virginia Criminal Injuries Compensation Fund (March 9-10, 2016)(on file with author);

¹⁵⁷ Interview with Kassandra (Kay) Bullock, Victims Services Manager, Virginia Department of Criminal Justice Services (March 8, 2016)(on file with author).

¹⁵⁸ 42 USC 10603 (b)(1)(E); Interview with Dan Eddy, Executive Director of the National Association of Crime Victim Compensation Boards (Feb. 25, 2016) (on file with author).

The urgent need for inter-agency coordinated efforts to combat the problem is also highlighted in the Attorney General Task Force report. Although the Task Force did not empirically test the issue, it clearly stated that “[c]hild-serving professionals from all disciplines and law enforcement professionals should partner to provide protection and help in recovery and healing for children exposed to violence.”¹⁵⁹ When addressing the appointed members of the Task Force, Attorney General Eric Holder further added that “[i]f we work together, across professional disciplines... we will be able to prevent this violence when possible, identify it when it does occur, and provide support that helps children heal so that they can grow into healthy adults.”¹⁶⁰ Throughout the report, an emphasis is put on the vital importance of developing a coordinated response across all phases of the process, from identification to recovery.

Lastly, most concerning of all are the challenges that emerge on the side of children affected by the Triple-C Impact and their families. For parents or guardians seeking resources and assistance for their children, the lack of systemic coordination, uniformity and commonly used terminology poses a colossal hurdle in the ability to identify and access available services and potential resources. Such challenges are severely exacerbated by several related issues illuminated by the survey’s results.

Although the survey has detected relatively high prevalence of statutory provisions that include children under most categories of the Triple-C Impact across the nation, very few of these provisions are specifically targeted towards children and their unique developmental needs. Most address the general adult population, with children included as an afterthought and without any account for the relevant differences between adults and minor children outlined in Section I. Only 13 states (25.4%) reported having a dedicated child victims act or provision. Six additional states (11.7%) reported the availability of a statutory provision with child-specific elements for at least one of the Triple-C categories.¹⁶¹ Absent such developmentally-oriented accommodations, available policies are inevitably expected to have diminished efficacy.

¹⁵⁹ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 19 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹⁶⁰ Eric H. Holder, Jr., U.S. Attorney General, Letter of the Attorney General to members of the National Task Force on Children Exposed to Violence (Dec. 20, 2012).

¹⁶¹ Complete Survey data is archived with the author.

Additionally, the vast majority (if not all) of the identified services and resources leave the initiative to the child's parent or guardian, who must actively seek and apply for the service. None of the responding states reported the existence of an effective referral system designed to identify children affected by the Triple-C Impact and to refer them to therapeutic services, for any of the categories of children included in the survey.¹⁶² Only one state (Rhode Island) reported a systematic mechanism for identification and tracking of children exposed to family crime. However, this identification method does not appear to be linked to a referral mechanism. It was also not extended to children under any of the other Triple-C Impact categories.¹⁶³

This appears to be a complicated system-design issue. While many of the statutorily mandated opportunities for counseling services for the relevant categories of children are provided through reimbursement by the states' Victim Compensation programs, such programs are not adequately equipped to provide effective recourse to the problem. Compensation programs are severely underfunded, and allocated with only a negligent slice of the federal VOCA funds (only 7% of the total VOCA budget, amounting to \$133M in 2017 for all states and territories combined).¹⁶⁴ The application process is long, and tedious, and programs in most states do not have the capacity to process large volumes of applications. Most importantly, by design, compensation agents do not have direct access to affected children, and thus do not have the capabilities or resources to pursue effective outreach, identification or referral efforts.¹⁶⁵

At the same time, 93% or \$1.8 billion¹⁶⁶ of the federal VOCA budget, is allocated as grants to Victim Assistance Programs. The act prioritizes funds to services dedicated to child victims.¹⁶⁷

¹⁶² Complete Survey data is archived with the author.

¹⁶³ Interview with Deborah DeBare, Executive Director of the RI Coalition Against Domestic Violence (March 22, 2016)(on file with author).

¹⁶⁴ Office of Victims of Crime (OVC) Formula Chart 2017 Crime Victims Fund Allocation: Compensation, <https://ojp.gov/ovc/grants/Crime-Victims-Fund-Compensation-Allocations-2017.pdf>

Interview with Dan Eddy, Executive Director of the National Association of Crime Victim Compensation Boards (June 27, 2017) (on file with author).

¹⁶⁵ Interview with Dan Eddy, Executive Director of the National Association of Crime Victim Compensation Boards (Feb. 25, 2016) (on file with author).

¹⁶⁶ Office of Victims of Crime (OVC) Formula Chart 2017 Crime Victims Fund Allocation: Assistance, <https://ojp.gov/ovc/grants/Crime-Victims-Fund-Assistance-Allocations-2017.pdf>

Interview with Dan Eddy, Executive Director of the National Association of Crime Victim Compensation Boards (June 27, 2017) (on file with author).

¹⁶⁷ The specific words of the Act prioritize funds for child abuse prevention and treatment, but some broader interpretations for the term "child abuse" are available (42 U.S. Code § 10603(a)(2)(A)).

In theory, the act permits the use of the grants to support a variety of local services and programs, including services to “secondary victims” such as children affected by crime exposure. Yet, eligibility criteria for the funded programs do not seem to be regulated by any overarching policies (either by law or internal protocols). No state has reported protocols that assure that funds are distributed to all affected categories of children. All states that provided information on this issue in our survey stated that eligibility criteria depend on each individual program and case-by-case examination.¹⁶⁸ No state could provide information about specific programs/services that accommodate the different categories of children affected by the Triple-C Impact. Publicly available lists of VOCA funded programs in each state include only very general information, and do not specify whether eligibility criteria cover “secondary victims”. Under these circumstances, although relevant services may be available, accessibility is hindered by the deficiencies in regulation and the distribution of information to the public. Thus, increased burden falls on the underfunded and unequipped Victim Compensation programs.

To add insult to injury, the process of conducting the survey has unearthed an abundance of technical difficulties that obscure the access to the information required in order to obtain available services and resources. We repeatedly encountered difficulties in identifying the agency responsible for provision of services for each of the surveyed categories, and locating the specific officials within the agencies who held the relevant information. Lack of transparency of contact information for relevant public servants (phone numbers, email addresses) was a reoccurrence in many states. The lack of transparency in contact information of government agents was justified by some as a security measure, to protect agents from threats.¹⁶⁹ While the physical safety of government agents is of vital importance, the safety measures enforced should not be ones that compromise the level of service and accessibility provided to vulnerable populations, especially when the means of contact are not face-to-face (i.e., phone or email). Furthermore, even once the required contact information was obtained, we often experienced lack of responsiveness from the side of relevant state officials.¹⁷⁰ Phone contact frequently proved to be futile, as the caller seeking information was transferred from one person to another

¹⁶⁸ Complete Survey data is archived with the author.

¹⁶⁹ Interview with Dan Eddy, Executive Director of the National Association of Crime Victim Compensation Boards (June. 28, 2017) (on file with author).

¹⁷⁰ It should be duly noted that there were also many states in which state officials were extremely responsive and cooperative, provided a wealth of helpful information, and assisted in locating additional sources of information

until reaching a dead-end (usually a voicemail full to capacity). Once again, the most notable difficulties were experienced in the collection of data on children affected by parental incarceration, where in some states up to five different agencies had to be contacted in order to obtain and confirm the needed information. Due to such access to information barriers, the compilation of the survey data included over a full year of persistent and repeated attempts.

Imagine a child in desperate need for assistance to overcome trauma in this environment. The child must depend almost solely on a lay parent with no professional skills, and often with only minimal education and resources,¹⁷¹ to go through the daunting journey through the thorny terrains of the system. The parent will first have to gain awareness and understanding that the child is in need of external assistance in relation to his/her exposure to crime. Then, the parent will require some level of cognizance that some form of assistance that suits the child's needs might be available out there. The parent will have to verify whether their child meets the varying and unpredictable eligibility criteria for available services. To do that, the parent must uncover which agency in their state or municipality is charged with provision of the needed service. Undeterred by many shutting doors, the parent will have to spot the specific position within the agency that processes the coveted information. They then must proceed on a quest to find out how to contact the individual holding this position, who, despite being entrusted to serve the public, their contact information is likely to be buried under layers of bureaucracy and pretty websites that contain very little substance. What are the odds that the vulnerable child, despite the parent's best intentions, will obtain this vital assistance that will help him/her find the path towards recovery?

The suspicions that the aforementioned cumulative systemic flaws impact utilization of the available services and resources were substantiated by the astonishingly low claim rates the

¹⁷¹ C. B. Cunradi, et al., Neighborhood Poverty As A Predictor of Intimate Partner Violence Among White, Black, and Hispanic Couples in The United States: A Multilevel Analysis, 10(5) *Annals of Epidemiology* 297 (2000); L. A. Goodman, et al. (2009), When Crises Collide: How Intimate Partner Violence and Poverty Intersect to Shape Women's Mental Health and Coping, 10(4) *Trauma Violence Abuse* 306 (2009); L. Corzine & J. Corzine, J., *Deadly Connections: Culture, Poverty, and The Direction of Lethal Violence*, 69(3) *Social Forces* 55 (1991); Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 33 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf> (Although no community is untouched, the epidemic of children's exposure to violence does not play out evenly across the country. Children living in poverty are far more likely to be exposed to violence and psychological trauma, both at home and in the surrounding community. Compounding the problem, economically impoverished families and communities typically lack the resources needed to protect children).

survey revealed. It should be disclaimed that the reporting systems of most states do not allow for a breakdown of data according to the categories of our survey.¹⁷² As a result, the numbers obtained are either from states with more sophisticated data systems, or those who agreed to hand-count the cases for the benefit of the survey. Claim rate data was provided by only 10 states, and only for part of the surveyed categories. Thus, the available figures should be considered anecdotal, and although telling and indicative, cannot be construed as conclusive evidence.

State	Category	Claims in 2015
Arizona	Exposure to Family Crime	35
California	Exposure to Community Crime	35
Iowa	Exposure to Family Crime	21
Kentucky	Exposure to Family Crime	0
	Exposure to Community Crime	0
	Parental Victimization	0
Maine	Exposure to Family Crime	0
Montana	Exposure to Family Crime	15
	Exposure to Community Crime	0
Nebraska	Exposure to Family Crime	1
	Exposure to Community Crime	0
Nevada	Exposure to Family Crime	0
Virginia	Exposure to Family Crime	0
West Virginia ¹⁷³	Exposure to Community Crime	0

These numbers are particularly astounding considering the fact that nearly half of the minor children living in the United States today are estimated by empirical studies to be affected by the

¹⁷² Interview with Dan Eddy, Executive Director of the National Association of Crime Victim Compensation Boards (Feb. 25, 2016) (on file with author).

¹⁷³ In the case of West Virginia, there are 0 claims for exposure to community violence documented in the history of the state's Victim Compensation Program despite the fact that the governing statute theoretically permits eligibility for compensation for children under this category. (Interview with Becky O'Fiesh, Chief Deputy Clerk, West Virginia Crime Victim Compensation Fund (March. 12, 2017) (on file with author))

Triple-C Impact in one form or another each year.¹⁷⁴ There could be many, more benign, reasons for low claim rates. The affected child or parent may not fully comprehend the severity of the harm endured, and the long-term implications of avoiding treatment. Some are able to obtain services elsewhere through medical insurance, urgent care or child protective services. Others are disinterested in obtaining assistance from government agencies due to negative past experiences or general distrust common to marginalized communities.¹⁷⁵ Yet, one can only wonder whether these persistent and recurring system design flaws and administrative roadblocks are not entirely coincidental, and may be the manifestation of political forces aiming to disincentivize the utilization of resources in order to generate some level of short-term fiscal savings. Unfortunately, an evidence-based examination of the problem indicates that such short-term savings are likely to result in epic long-term costs borne by taxpayers and society. This is explained in Section V.

Section IV: Policy Implications

The presented survey offers the first-ever attempt for accurate national-scale mapping of the policies and resources at the disposal of Triple-C Impacted children. As such, it provides a unique perspective on the macro and micro-level, which can serve as an invaluable tool for any attempt to enhance our response to the Triple-C Impact national crisis, for the benefit of both the affected children and society as a whole.

First, survey results can serve as a resource in the hands of service providers and policy makers in the field, at the state and national levels. The survey allows access to methodically compiled knowledge as to the existence of services for each category of affected children under each jurisdiction, the exact scope of eligibility, the government agency charged with distribution of resources and eligibility assessment, and accurate references to the governing laws and policies.

¹⁷⁴ Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 3 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹⁷⁵ These are some factors that explain general low claim rate for victim compensation assistance, which are estimated to steadily stand at approximately 10% in most states (Interview with Dan Eddy, Executive Director of the National Association of Crime Victim Compensation Boards (June. 28, 2017) (on file with author)).

This information can be used to improve and maximize the ability of service providers and advocates to assist affected children, and enhance their referral capabilities. It may also assist in inter-agency collaboration and coordination, as each agency can gain a better understanding of what the others are doing. On the policy level, the information the survey provides illuminates existing gaps that require attention when devising policy amendments and legislative proposals. It can also facilitate inter-state collaborations and provide opportunities to learn from experiences already gained in states where more elaborate child-specific policies and more inclusive eligibility criteria are practiced.

Second, the findings can direct our efforts towards devising responses to the problem in a more effective and targeted manner. The original hypothesis assumed that the core of problem lay in statutory lacunas that prevented formal recognition for many categories of affected children, and restricted eligibility criteria. This underlying assumption would have directed efforts towards legislative initiatives to assure recognition to all Triple-C Impact categories, expansion of statutory definitions, and channeling fiscal resources and grants to fill the identified gaps. An analysis of the survey results demonstrates that such solutions may not target the essence of the problem, and hence are unlikely to breed effective results.

A careful analysis of the survey data leads to the conclusion that the heart of the problem lies in lack of cooperation and coordination between stakeholders in the field, significant gaps in knowledge among key players, and technical difficulties and flaws in system design that impede access to information and resources. Following these critical leads, a more effective strategy may be to focus on developing mechanisms for fluent communication among the key players in the field; encouraging and fostering inter-agency collaborations; devising best practices promoting standardization and coherent use of terminology across the board; establishing identification systems to alleviate the dependence on parental initiative; correcting the technical difficulties obscuring access to services; and designing new methods to improve the accessibility of the available policies and services. Such actions must also be accompanied by efforts to assure that the capacity of the existing system can accommodate the expected increase in claim rates and rise in service utilization.

One category of affected children stands apart in the survey results: children affected by parental incarceration. For this particular category, the original hypothesis of impeding statutory gaps was

found to bear truth. Consequently, for this category, addressing the statutory lacuna and filling the identified gaps in state laws and statutory distribution of funds through legislative actions may be the most applicable course of action towards the desirable outcome.

Taking such an evidence-based route, relying on survey findings, allows us to custom-fit the solution to the specific nature and characteristics of the problem at hand in a manner that is expected to produce more constructive and efficient outcomes.

Section V: Why Crime?

Reading through this article must beg the question, what is so special about crime? It is intuitive to assert that childhood is a vulnerable period in the life of an individual. This vulnerability overexposes children not only to harm induced by crime, but also to that resulting from many other life adversities, such as poverty, familial instability, natural disasters, illnesses, and many others. Why should we isolate and focus on the negative effect of crime on the child?

Although all these above-listed weighty social problems have the potential to be highly damaging to children, and justify prioritized attention and action, there are several factors that differentiate crime from the others.

While the aforementioned compartmentalized examination of the problem thus far prevented us from gaining accurate measures of the problem, existing indicators provide a strong sense of its mammoth magnitude. As determined by the Attorney General Task Force, the problem is “not limited to one community or one group of children. It occurs among all ethnic and racial groups; in urban, suburban, and rural areas; in gated communities and on tribal lands.”¹⁷⁶ Existing data show that approximately two out of every three children are affected. “Of the 76 million children currently residing in the United States, an estimated 46 million” can expect to have their lives touched by violence and crime this year.¹⁷⁷ One in every ten children in the US experiences more

¹⁷⁶ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence viii (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹⁷⁷ Robert L. Listenbee, et al., Report of the Attorney General’s National Task Force on Children Exposed to Violence 3 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; see also: David Finkelhor et al., Children’s Exposure to Violence: A Comprehensive National Survey, Juvenile Justice

than one type of crime exposure, and thus is considered a poly-victim.¹⁷⁸ These astonishing numbers include only children affected by direct victimization, exposure to family crime and exposure to community crime. They do not include children with victimized caregivers and those affected by parental incarceration, who are also included in this study under the Triple-C Impact.

Studies in the field of medicine and social science provide strong and convincing evidence of the harm inflicted on children affected by crime exposure.¹⁷⁹ Although almost no studies encompass all the Triple-C categories, existing research provides ample evidence, outlined in this article, as to the strong correlation between crime exposure and a broad range of injurious symptoms. It also provides insightful explanations about the physical and psychological mechanisms and processes underlying the caused harm. This invaluable information and data are largely ignored by policy makers in the criminal justice arena, and are not sufficiently accounted for in order to improve the efficacy of devised solutions. In fact, in this specific field there is strong evidence to show that there are very effective tools, which, if applied correctly, can significantly alleviate the damaging effect of childhood crime exposure.¹⁸⁰ The wealth of informative evidence coupled

Bulletin (Oct. 2009), available at: <https://www.ncjrs.gov/pdffiles1/ojdp/227744.pdf>; David Finkelhor, et al., Prevalence of Childhood Exposure to Violence, Crime and Abuse: Results From the National Survey of Children's Exposure to Violence, 169 JAMA Pediatrics 746 (2015); David Finkelhor, et al., Trends In Childhood Violence and Abuse Exposure: Evidence From Two National Surveys. 164(3) Archives of Pediatric and Adolescent Medicine 238 (2010); David Finkelhor, et al., Violence, Crime, and Abuse Exposure in a National Sample of Children and Youth: An Update, 167 JAMA Pediatrics 614 (2013); David Finkelhor, Prevalence of Child Victimization, Abuse, Crime and Violence Exposure, in *Violence Against Women and Children: Mapping The Terrains* (J.W White, et al. Eds.) 9, 9-13 (2011).

¹⁷⁸ Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 5 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; Heather A. Turner, Richard K. Ormrod & David Finkelhor, Poly-Victimization in a National Sample of Children and Youth, 38(3) American Journal of Preventive Medicine 323 (2010).

¹⁷⁹ For an elaborate analysis of the range of outcomes associated with the Triple-C Impact see: Michal Gilad et al., *The Snowball Effect of Crime & Violence: Measuring the Triple-C Impact*, 46 FORDHAM URB. L.J. (forthcoming 2018).

¹⁸⁰ Erica J. Adams, Justice Policy Institute, *Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense* 1 (2010); S. J. Ko, et al., Creating trauma-informed systems: Child welfare, education, first responders, health care, juvenile justice, 39(4) Professional Psychology: Research and Practice 396 (2008); J. A. Cohen, A. P. Mannarino & S. Iyengar, Community treatment of posttraumatic stress disorder for children exposed to intimate partner violence: a randomized controlled trial, 165(1) Archives of Pediatric and Adolescent Medicine 16 (2011); Robert L. Listenbee, et al., Report of the Attorney General's National Task Force on Children Exposed to Violence 90 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; L. Pilnik & J. Kendall, *Safe Start Center Series on Children Exposed to Violence*, Victimization and trauma experienced by children and youth: Implications for legal advocates (Sep. 2012), http://www.ojdp.gov/programs/safestart/IB7_VictimizationTrauma_LegalAdvocates.pdf; C. Ghosh Ippen, et al., Traumatic and stressful events in early childhood: can treatment help those at highest risk? 35(7) *Child Abuse & Neglect* 504 (2011); A. L. Lieberman, C. Ghosh Ippen & S. Marans, Psychodynamic therapy for child trauma, in

with the availability of effective resources in this field provides a unique opportunity to make a significant difference with positive outcomes.

Another strong data-point in this field is the massive cost of the problem to the state and our society in general. Again, the lack on inclusive examination of the Triple-C Impact problem in its entirety thus far prevents us from gouging the full cost of the problem. Nevertheless, the existing partial estimates are already overwhelming.¹⁸¹ The Attorney General Task Force report has described the financial costs of the problem as “astronomical”.¹⁸² It acknowledged the financial burden it placed on public systems, including child welfare, social services, law enforcement, juvenile justice, and, in particular, education.¹⁸³ This is combined with the staggering loss of productivity over children’s lifetimes.¹⁸⁴ To provide a sense of the magnitude of the sums involved, the annual costs of the public health system alone are estimated to range from \$333 billion to \$750 billion. One study estimates the annual national costs of only direct victimization, without consideration of the remaining 4 Triple-C Impact categories, at \$94,076,882,529.¹⁸⁵ Another study evaluated the lifetime costs per child to be \$210,012-

Effective treatments for PTSD 370–387 (E. B. Foa, et al. (Eds.), 2009); P. Van Horn & A. Lieberman, Using dyadic therapies to treat traumatized children, in *Treating traumatized children* 210–224 (D. Brom, R. Pat-Horenzcyk, & J. D. Ford (Eds.), 2008).

¹⁸¹ Erica J. Adams, Justice Policy Institute, *Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense* 1 (2010); Xiangming Fang, *The Economic Burden of Child Maltreatment In The United States and Implications For Prevention*, 36 *Child Abuse & Neglect* 156 (2012); Suzette Fromm, *Total Estimated Cost of Child Abuse & Neglect In The United States: Statistical Evidence* (2001), http://www.issuelab.org/resource/total_estimated_cost_of_child_abuse_neglect_in_the_united_states_statistical_evidence; Kathryn E. McCollistera, Michael T. Frenchb, & Hai Fang, *The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation*, 108 *Drug Alcohol Depend.* 98 (2010); Theresa Dolezal, et al., *Academy on Violence and Abuse, Hidden Costs in Health Care: The Economic Impact of Violence and Abuse* (2009);

Patrick Sidmore, Alaska Mental Health Board and the Advisory Board on Alcoholism and Drug Abuse, *Economic Costs of Adverse Childhood Experiences in Alaska: The Price of Not Intervening Before Trauma Occurs*, <http://dhss.alaska.gov/abada/ace-ak/Documents/ACEsEconomicCosts-AK.pdf>

¹⁸² Robert L. Listenbee, et al., *Report of the Attorney General’s National Task Force on Children Exposed to Violence* 5 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹⁸³ Robert L. Listenbee, et al., *Report of the Attorney General’s National Task Force on Children Exposed to Violence* 5 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹⁸⁴ Robert L. Listenbee, et al., *Report of the Attorney General’s National Task Force on Children Exposed to Violence* 5 (Dec. 20, 2012), available at: <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

¹⁸⁵ Suzette Fromm, *Total Estimated Cost of Child Abuse & Neglect In The United States: Statistical Evidence* (2001),

http://www.issuelab.org/resource/total_estimated_cost_of_child_abuse_neglect_in_the_united_states_statistical_evidence

\$1,258,800 (in 2010 dollars).¹⁸⁶ Thus, effective resolution of the problem provides an almost unparalleled opportunity for savings in fiscal and social costs.

Lastly, governments are considered to have unique obligations towards their citizens where crime is concerned, in comparison to other social issues. This is particularly significant in the case of the U.S. libertarian and capitalist-oriented political system, where the state has very limited responsibilities towards the individual, in comparison to more socialist and welfare-based political systems. The emphasis on government responsibilities in the criminal justice arena can be traced to the philosophical conceptualization of the state and its sovereignty, which was fundamentally based on the state's obligation to physically protect its constituents. Since the time of Thomas Hobbes and Jean-Jacques Rousseau, this obligation to protect was associated with the government's responsibility to operate the criminal justice system and protect constituents from harmful criminal activity.¹⁸⁷ From this responsibility to protect also stems the role of the state as the prosecutor, representing the people, in most criminal proceedings. Although the issue of government responsibility towards citizens is a highly complex and controversial one, we can identify fundamental principles that establish heightened state responsibilities in the area of protection of the citizens from crime-induced harms.

The critical combination of level of harm, extensive prevalence and scale, massive financial burden, availability of evidence-based effective remedies, and the heightened state obligations in this field, calls for urgent attention to this issue and provides an unparalleled opportunity for effective positive change.

Conclusions

Following the fundamental principles of the evolution of legal problems, this article takes the first step and names a “new” problem. Such a seemingly simple and technical task of assigning a title to a problem may at first glance appear mundane. However, the effect goes much deeper

¹⁸⁶ Xiangming Fang, *The Economic Burden of Child Maltreatment In The United States and Implications For Prevention*, 36 *Child Abuse & Neglect* 156 (2012).

¹⁸⁷ Thomas Hobbes, *Leviathan* (Edwin Curley ed.) 144 (1994); Jean-Jacques Rousseau, *The Social Contract*, 166 (trans. and ed. Donald A. Cress. Hackett Publishing Company, Inc., 2011).

than the title. Naming a problem helps conceptualize a recurring phenomenon as problematic and injurious and shine a spotlight on its existence and the harm it inflicts, so it can no longer be ignored. It provides a point of reference that enables us to raise awareness, initiate public discussion, and make coordinated and cohesive efforts to address the problem – the same type of efforts that are so direly missing when the Triple-C Impact is concerned.

The naming process also facilitates the defining of the scope and boundaries of the problem. In the case of the Triple-C Impact, it allows us to cluster together a group of adverse elements that were previously looked at in isolation, so we can see the inseparable common grounds and inter-connections that tie them together cohesively into one integral problem. Only once this inclusive perspective is developed through the naming process, the true extent of the problem can be understood, its root causes identified, and its full effect realized.

Coining the Triple-C Impact terminology highlights a paramount problem that affects millions of children all around us. It maims the bodies, souls and spirits of those who we ought to protect most. But its effect goes far beyond the individual children it touches. With millions of children across the nation untreated and prevented from conducting a healthy and productive lifestyle, with heightened risk for substance abuse, criminal behavior, and repeat victimization, community safety is inevitably compromised, and public funds are unnecessarily burdened.¹⁸⁸ Thus, none of us is spared from its violent claws.

This article takes the first step in providing a realistic conceptualization of the problem, integrating legal tools with scientific findings. By mapping the existing gaps in the system, and pinpointing the underlying causes of the prevailing deficiencies, the study provides initial directions to possible solutions to the problem and gives us a valuable opportunity to take action that will improve outcomes for millions of children across the nation, and our society as a whole. The next step to be undertaken in the path towards an effective response is an economic analysis that will evaluate the aggregate costs of the Triple-C Impact problem to the state and to our

¹⁸⁸ See for example Linda G. Mills, *The Justice of Recovery: How the State Can Heal the Violence of Crime*, 57 *Hastings L.J.* 457, 481-6 (2005); Frank W. Putnam, *The Impact of Trauma on Child Development*, 57 *Juvenile and Family Court Journal*, 1, 2 (2006); Erica J. Adams, *Justice Policy Institute, Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense* 1 (2010).

society. Relying on these two pillars, an operative and financially sound action plan can be developed to alleviate the devastating harms caused by this sweeping problem.

Appendix: 50-State Survey Results

Table 1: State-by-State Triple-C Impact Statutory Recognition by Category (as of 2016)

The table exemplifies which of the Triple-C Impact categories is statutorily recognized in each of the 50 states and the District of Columbia. The table presents the results in a 0/1 form. “1” is logged where the state’s law recognizes the category and provides eligibility for therapeutic services or compensation for children under the category. “0” is logged when no statutory recognition is available for the category in the state. Blank logs were placed when information was unavailable.

STATE	Direct Victims: Child Specific Victim Rights Act\Provision	Family Violence	Community Violence	Parental Victimization	Parental Incarceration	Data on Parental status of Inmates	Total
Alabama	0	1	0	1	0	1	3
Alaska	0	1	1	1	0	0	3
Arizona	0	1	0	0	1		2
Arkansas	0	1	0	1	0	0	2
California	0	1	1	1	0	0	3
Colorado	1	1	0	1	0	0	3
Connecticut	0	1	0	1	0	1	3
Delaware	1	1	0	1	1	0	4
Florida	0	1	1	0	0	1	3
Georgia	0	1	1	1	0	1	4
Hawaii	0	0	0	0	0	1	1
Idaho	0	1	0	1	0	0	2
Illinois	0	1	1	1	0	1	4
Indiana	0	0	0	0	0	0	0
Iowa	0	1	0	1	0	1	3
Kansas	0	1	0	1	0	0	2
Kentucky	0	1	1	1	0		3
Louisiana	0	1	0	1	0	0	2
Maine	0	1	0	0	0		1
Maryland					0	0	0
Massachusetts	0	1	0	0	0		1
Michigan	0	1	0	1	0	0	2
Minnesota	1	1	1	1	0		4
Mississippi	1	1	1	1	0		4
Missouri	0	1	0	1	0	1	3
Montana	0	1	1	0	0	0	2

Nebraska	0	1	1	0	0		2
Nevada	0	1	1	0	0	1	3
New Hampshire	0	1	0	1	0	1	3
New Jersey	0	1	0	1	0	1	3
New Mexico	0	1	1	1	0	1	4
New York	1	1	1	1	0	1	5
North Carolina	0	0	0	0	0	1	1
North Dakota	1	1	1	0	0		3
Ohio	0	1	0	0	0	1	2
Oklahoma	0	1	0	0	0	0	1
Oregon	0	1	1	0	0	1	3
Pennsylvania	1	1	1	1	0		4
Rhode Island	1	0	0	0	0	0	1
South Carolina	0	1	1	1	0	1	4
South Dakota	0	1	1	1	0		3
Tennessee	0	1	0	0	0	0	1
Texas	0	1	0	1	0	0	2
Utah	1	1	0	1	0	1	4
Vermont	0	1	1	1	1	0	4
Virginia	0	1	0	0	0	0	1
Washington	1	1	1	0	0	1	4
West Virginia	0	1	1	1	0	0	3
Wisconsin	1	0	0	0	0	1	2
Wyoming	0	1	1	1	0	1	4
Washington DC	0	1	0	1	0		2
Total	11	45	22	31	3	21	Average 2.61