Reduce the Abuse: Exploring Solutions to Abusive Foster Care
By Amanda Hawkins*

“On Jan. 31, 2001, 5-year-old Logan Marr was found dead in the basement of her foster mother's home in Chelsea, Maine.”¹ The foster mother, Sally Schofield, was the third foster mother to take Logan in since she was taken from her birth mother, Christy Marr.² Sally was also a highly respected former caseworker for Maine's Department of Human Services.³ Sally was convicted of manslaughter after police determined that she had bound Logan with duct tape and strapped her into a high chair in the basement causing her to die from asphyxiation.⁴

Little Stephanie never had a chance.⁵ Days after being born she was wrapped in plastic and discarded by her parents on a street corner.⁶ By the time she was found she had suffered

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² Id.

³ Id.

⁴ Id.


⁶ Id.
brain damage, and therefore entered the foster care system with many disabilities. After being moved from foster care home to foster care home for eight years, she was once again found wrapped in plastic and discarded on a street corner; this time, she was dead though and it was her foster mother who discarded her.

Bruce never had an advocate. Bruce was removed from his biological parent’s home, by children services, because his parents were starving him, and then placed into another home where his foster parent’s continued to mistreat and starve him and other foster children. Despite this abuse, the state permitted these abusive foster parents to adopt Bruce and three other children, because the children service’s agency failed to report the abuse and instead reported the foster parents as loving and deeply religious.

“In January 2003, 7-year-old boy Faheem Williams was found dead in a plastic bin in the basement of his foster mother’s house, right after the discovery of his beaten, burned, and

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7 Id.
8 Id. Although the foster care agency’s records indicated that the foster mother was taking excellent care of the child and was meticulous and contentious, police found the home filthy and unsanitary, covered with hair, feces, and insects, and Stephanie’s feeding tube, that kept her alive, coated with grime and weeks-old formula. Id.
10 Id.
11 Id.

Although employees with the foster care agency visited the home he was placed into 38 times in 4 years, they failed to help him as his foster care parents continued to starve him. Finally, the emaciated, four foot tall, nineteen year-old ran away from his abusive foster parents and was found by some neighbors rummaging through their garbage at 2am. Bruce suffered abuse from his foster parents for over eight years before neighbors alerted officials, who finally acted on his behalf to protect his “best interests” and get him the care he needed. Id.


Children’s Rights filed a civil damages action against the State of New Jersey on behalf of the severely abused and neglected Jackson boys. Approximately one year after the complaint was filed, Children’s Rights settled with the state for $12.5 million. The New Jersey Child Advocate was instrumental in the case, releasing a preliminary investigation report detailing DYFS’ failure to protect the Jackson children and filing a petition to have Marcia Robinson Lowry appointed Guardian Ad Litem for the boys. Id.
starving brothers lying in their own excrement.” Their foster mother Sherry Murphy is currently serving a 25-year prison sentence for aggravated assault, criminal restraint, and child endangerment of Faheem’s brothers. Wesley Murphy, who was living in the foster home with Faheem, admitted he had accidentally killed Faheem with a wrestling move in which he had forced his knee into the child’s abdomen while the children were playing in the living room.

Two young girls from Ohio claim their foster parents subjected them to almost seven years of torture - "including being caged in kennels like animals." Although their foster parents had a history of abusing their own child, they were permitted to foster eleven children. A home study assessment was negligently performed before the girls were placed in the foster parent’s

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13 To Settle Suit in Boy’s Death, supra note 12.
14 Id. Wesley Murphy, Faheem’s cousin, plead guilty to reckless manslaughter, and has since served his time. Id. Sherry Murphy admitted that she left the boy’s body on the floor of her Irvington home, then put it in a plastic hamper, which she took with her when they moved to Newark . . . Faheem, Raheem and Tyrone had been living with Ms. Murphy after their mother, Melinda Williams, went to prison for endangering a child she had been baby-sitting . . . New Jersey spent $7.5 million to settle this lawsuit over this child welfare case; this payout is the second-largest made by the State Division of Youth and Family Services over child welfare mistakes, according to state officials. Id.
16 Id.

The girls also sued Collin Myers Ph.D., and Fairhaven Counseling of Cuyahoga Falls, who endorsed the adoption. . . The girls, whom the Cleveland News reported are 11 and 12 years old, say they lived in the Gravelle’s (Michael Gravelle and Sharen Curtis-Tipperman fka Sharen Gravelle) home from 1997 until 2005, when they were rescued by authorities. . . The girls say the Gravelles’ foster children were "caged in unsanitary kennel-like structures, complete with alarms, where they were required to sleep, and which were used for discipline." . . . The girls say they were housed in rodent-infested rooms, and "hosed down outside, regardless of the season or temperature after incidents of enuresis." . . . The girls say that more than once the Gravelles pushed their head into the toilet and flushed it, or stuffed a sock in their mouth as a form of punishment. Id.
home, approving the foster parents to adopt multiple children, despite foster parent Michael Gravelle having previously molested his own daughter.\footnote{Id. Molestation “occurred between 1984 and 1986, which he admitted to Lorain County authorities, and had attended sexual abuse counseling sessions, where he was ‘very uncooperative,’ according to the complaint.” \textit{Id.}}

Stories of foster care abuse experienced by children like Logan, Stephanie, Bruce, Faheem, and many others are happening every day.\footnote{\textit{See supra} notes 1-16 (2001, 2003, 2005).} Children in foster care have already experienced abandonment, abuse, or neglect by their biological parents when the state places them into the foster care system.\footnote{\textit{Sarah H. Ramsey, Douglas E. Abrams, Children and the Law} 161 (2001).} Allowing these children to continue to be abandoned, abused, and neglected in the foster care system defeats the purpose for which foster care was created -to provide children a safe home where their basic needs can be met until they can be placed back in their home with their parents or eventually be adopted.\footnote{\textit{Id.}}

When the state intends to help children who are abandoned, abused, and neglected, through policies and procedures removing the child from their abusive parents, there is a problem when the child is placed again, and again into another similarly abusive home, without an advocate, without a chance. This article addresses whether foster care abuse can be reduced by implementing programs through state legislation which would provide for community partnerships and provisions when children in foster care are connected to community safety nets which could include: community-wide preventative measures, community-based third-party advocate centers, community partnerships between caseworkers and faith based organizations, and mandatory legal representation for children when they have allegedly been abused, abandoned, or neglected. Part I discusses the foster care system in the United States and the problems associated with foster care abuse. Part II reveals statistics and cases regarding foster care abuse as a problem, and some current laws that have been enacted to deal with it, including
the role child protective services [CPS] plays. Finally, Part III suggests some positive solutions to reduce foster care abuse, when implemented within the state through legislation and community partnerships.

One solution alone is not enough to eliminate foster care abuse. Rather several solutions can and need to be implemented by states to end the unnecessary and tragic continued harm to children by foster parents.

**Part I: The U.S. Foster Care System and the Problems Associated with It**

Countless numbers of children are abused every day in their homes. Some children, who are removed from their dangerous homes, are placed in foster care and subjected to the same or similar abuse they were intended to be removed from. This undermines the theoretical goal of the modern foster care system: “to create a temporary, safe, homelike setting to protect and nurture children who are unable to live with their biological parents due to various reasons such as abuse, neglect, or abandonment.” When a state agency removes children from the care of the parents it claims are abusive and neglectful, the children should at least be placed in safer environments than those from which they were removed. Each child should have a right to a safe and secure home, free from abuse. Foster care homes should offer a safe and secure home alternative to children in times of need.

The state is cautious about infringing on people’s constitutional liberty rights and controlling their actions within their homes regarding their family relationships, but when

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22 Natural parent abuse is a major concern, though beyond the scope of this article, which focuses on abuse in foster homes.

23 Marzick, *supra* note 11, at 507.

24 Id.

25 Id. at 506.

26 U.S. CONST. amend XIV: “[No] state [shall] deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
children are abused the state has responsibility to exercise authority to protect them too.\textsuperscript{27} The state regulates foster care homes and has a right to choose and direct the care children receive while staying in a foster care home.\textsuperscript{28} The state has the power to reduce the abuse children experience in foster care because the state regulates the foster care service program. The state should hold the people offering their homes for foster care to an even higher standard than the average parent and enforce even stronger penalties for abuse of children in foster care.

Foster Care\textsuperscript{29} was established in America in 1832 because of a social concern for the orphaned, poor, and needy children.\textsuperscript{30} Foster care was based on this “child rescue philosophy” until the beginning of the twentieth century.\textsuperscript{31} The goal of the modern foster care system is “to create a temporary, homelike setting to protect and nurture children who are unable to live with their biological parents due to reasons such as abuse, neglect, or abandonment.”\textsuperscript{32} Realistically though, many states are failing to provide even simple protections to foster children.\textsuperscript{33} Foster care has become a dangerous place for way too many children.\textsuperscript{34} “Research suggests that once a child is removed from abusive parents, and placed in foster care, the child may not be safer from harm, which ‘undermines the belief that foster care placements are less dangerous and detrimental to children than remaining with their biological parents who have abused or neglected them.’”\textsuperscript{35}

Foster care is necessary for children who need a temporary place to stay. The goal of the foster care system is to function as temporary, stable, substitute care for children while their

\textsuperscript{27} Ramsey, supra note 19, at 83.
\textsuperscript{28} Id. at 163-64.
\textsuperscript{29} Foster care includes placement in private homes licensed and supervised by the state, group homes or institutions. Ramsey. Id. at 161.
\textsuperscript{31} Id.
\textsuperscript{32} Marzick, supra note 11, at 507.
\textsuperscript{33} Id.
\textsuperscript{34} Id.
\textsuperscript{35} Id.
natural parents are rehabilitated so they can become reunited. “Unfortunately, most children linger in foster care for longer than expected and their living situations are anything but stable.”

Recent legislation has attempted to get foster children into adoptive homes or back with their parents as soon as possible, although when children are placed into a home that is not safe, serious damage can result to a child that has already been traumatized. However, many caseworkers “fear liability or negative publicity if they leave a child with an abusive parent.” So, removing the children becomes the safer choice to them.

“Most states have enacted statutes specifically prohibiting the abuse of children.”

Statutes generally define child abuse and neglect, state child abuse as a crime, and state the punishment given to abusers who are found guilty of committing the crime. For example, according to the Ohio Revised Code, an abused child includes any child who:

1. Is the victim of "sexual activity" . . .
2. Is endangered . . .
3. Exhibits evidence of any physical or mental injury or death, inflicted other than by accidental means, or an injury or death which is at variance with the history given of it . . .
4. Because of the acts of his parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare.
5. Is subjected to out-of-home care child abuse.

According to the Ohio Revised Code, a neglected child includes any child:

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36 Sharon Balmer, From Poverty to Abuse and Back Again: The Failure of the Legal and Social Services Communities to Protect Foster Children, 32 FORDHAM URB. L.J. 935, 938-39 (2005).
37 Id.
38 Id.
39 Id.
40 Id.
41 MARTIN R. GARDNER, UNDERSTANDING JUVENILE LAW 54 (3rd ed. 2009). Abuse includes physical, emotional, and psychological abuse, abandonment, and neglect, and abuse comes in many different forms. Id. The focus of this article is on child abuse. This article reveals the abuse children in foster care experience is the same kind of abuse children experience from their natural parents.
42 OHIO REV. CODE ANN. § 2151.031 (2011). Also The Ohio Department of Job and Family Services [hereinafter ODJFS] e-manual on March 6, 2011 Available at http://emanuals.odjfs.state.oh.us/emanuals/GetDocument.do?nodeId=%23node-id(169)&docId=Document(storage%3DREPOSITORY%2CdocId%3D%23node-id(494973))&locSource=input&docLoc=%24REP_ROOT%24%23node-id(494973)&version=8.0.0)
(1) Who is abandoned by the child's parents, guardian, or custodian;
(2) Who lacks adequate parental care because of the faults or habits of the child's parents, guardian, or custodian;
(3) Whose parents, guardian, or custodian neglects the child or refuses to provide proper or necessary subsistence, education, medical or surgical care or treatment, or other care necessary for the child's health, morals, or well-being;
(4) Whose parents, guardian, or custodian neglects the child or refuses to provide the special care made necessary by the child's mental condition; . . .
(6) Who, because of the omission of the child's parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare;
(7) Who is subjected to out-of-home care child neglect.\textsuperscript{43}

There are several factors that are considered contributory to the existence of foster care abuse including the following: the failure of state child welfare agencies to meet professional standards, child welfare departments not adequately reporting the actual extent of maltreatment that occurs in foster care, and the amount of accountability of the foster care system.\textsuperscript{44} Children are at the mercy of adults to advocate for their best interests, and when these adults are overworked, abusive, or disconcerted, many foster children are abused instead of protected.\textsuperscript{45}

Approximately 303,000 children enter the foster care system annually.\textsuperscript{46} “An increase in drug and alcohol abuse, poverty, and homelessness has led to an increase in the population of children in foster care.”\textsuperscript{47} Most of these children will have been raised in poverty, and most of them will have some sort of physical or mental issue upon entering foster care.\textsuperscript{48} Entering foster

\textsuperscript{43} \textit{Ohio Rev. Code Ann.} § 2151.03 (2011).
\textsuperscript{44} Marzick, \textit{supra} note 11, at 507. There is a growing body of evidence that links this to child abuse in foster care.
\textsuperscript{45} \textit{Id.}
\textsuperscript{47} Balmer, \textit{supra} note 36, at 937.
\textsuperscript{48} \textit{Id.}
care is traumatic for children because they are being separated from everything, including their parents, family, and home, even if separation is intended to be only temporary. These children are not assured a calm transition into foster care or a positive experience while in foster care due to the states difficulty in administering and monitoring the foster care system. In the foster care system a significant number of children are moved from placement to placement leading them to a far greater risk for abuse than those in the general population.

Foster care abuse is a problem now and also leads to potential problems in the future. According to the *Child Maltreatment 2009* Report, “child abuse and neglect is one of the Nation’s most serious concerns.” Furthermore, it has been reported that “children in foster care are physically abused at a much greater rate than children in the general population.”

Marcia Robinson Lowry, executive director of Children's Rights, Inc., “concluded that the

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49 Id.
50 Id.
51 Id. “As of September 30, 1998, nearly two thirds of the children then in foster care had experienced between one and two placements, twenty-one percent had experienced three or four placements, and sixteen percent had experienced five or more.” Id.
52 “Child Maltreatment 2009 presents national data about child abuse and neglect known to Child Protection agencies in the United States during Federal fiscal year (FFY) 2009. The data were collected and analyzed through the National Child Abuse and Neglect Data System (NCANDS), which is supported by the Children’s Bureau.” U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES, CHILDREN’S BUREAU (2010) *CHILD MALTREATMENT 2009*, available at http://www.acf.hhs.gov/programs/cb/pubs/cm09/index.htm
53 The Children’s Bureau, addresses this important issue in many ways. For example, the Children’s Bureau collects data on the children who are served by Child Protection Services Agencies.” Id.
54 Balmer, *supra* note 36, at 937-38.
55 Children’s Rights Inc. is a national advocacy group, working out of New York, to reform failing child welfare systems on behalf of the many abused and neglected children since 1995. CHILDREN’S RIGHTS INC. available at http://www.childrensrights.org/about/mission-and-methods/ [hereinafter Children’s Rights Inc.]
foster care system in the United States has deteriorated to the point where ‘it is now a documented fact that no child is safe today in the state's foster care.’” These facts reveal that the foster care system is failing in its goal to serve the needs of the current population of children. It has been stated by some children’s advocates “that forty percent of foster children end up on welfare or in prison, and foster children are sixty-seven times more likely to be arrested than children who did not grow up in foster care.”

There are some legal options available to victims of foster care abuse. Victims of foster care abuse can sue their abusers either through individual damages claims filed by their biological parents, or the estates of the deceased foster child, or through class action lawsuits filed for the abused foster children by child advocacy groups and public interest law firms. Children's Rights Inc. is a “national watchdog organization advocating on behalf of abused children in the U.S,” that uses legal action to make a difference for the better in children’s lives where they have been abandoned, abused, or neglected. Children's Rights Inc. has successfully settled civil damages actions for abused foster children, litigated many class action suits for abused foster children, and has achieved reform in the foster care systems of many states.

In G.L. v. Sherman, Children's Rights argued that the Missouri Division of Family Services (DFS) licensed and maintained foster homes without adequate investigation and supervision, resulting in

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56 Marzick, supra note 11, at 507.
57 Balmer, supra note 36, at 937.
58 For examples of children that were abused in foster care that grew up to commit heinous crimes to others see State v. Smith, 574 N.E.2d 510 (1991) (where man, who was abused in foster care as a child, was convicted of two counts of aggravated murder and was sentenced to death, as an adult) and State v. Adams, 817 N.E.2d 29 (where man, who was abused in foster care as a child, was convicted of capital murder, aggravated burglary, kidnapping, and rape and was sentenced to death, as an adult).
59 Balmer, supra note 36, at 937.
60 Marzick, supra note 11, at 509.
61 CHILDREN’S RIGHTS INC., supra note 55.
62 Marzick, supra note 11, at 510.
63 Id.
foster children being abused and neglected in their placements. As one of the five named plaintiffs, G.L. was abused by his foster parents, sustaining first and second-degree burns on both hands, massive bruises on both buttocks, and numerous smaller bruises throughout his body. Children's Rights was successful in making several improvements as a result of the lawsuit, including: (1) ensuring thorough investigations, including criminal history and child abuse checks of foster homes before they are licensed; (2) “thorough and timely” investigations of foster care abuse and neglect allegations; and (3) certification and training of foster parents before children are placed in their homes.65

Although there are legal options available to foster care abuse victims, because this abuse usually occurs behind closed doors toward victims incapable of reporting its occurrence the evidence becomes difficult to document and prove.66 The options available to help victims of child abuse are not enough to stop the problem. Since discovering the problems with the foster care system, legislators and judges have attempted to deal with them, but as you will see it is still not enough. More solutions are needed.

**Part II: Statistics, Case Law, and Current Laws to Deal with Foster Care Abuse**

According to the Adoption and Foster Care Analysis and Reporting System [AFCARS] Report, 423,773 children were reported to be in foster care in the United States on September 30, 2009.67 The average age of children in foster care reported was about 9.5 years old, while the largest percentage68 of children were between the ages of 15-17 years old.69 The average length of stay for a child in foster care reported was about 26.5 months, while the highest percentage of

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68 24% *Id.*
69 *Id.*
the children stayed in foster care for less than five months, and 11% of the children were reported to have stayed five years or more.

The foster care system failing to maintain minimum standards of care to ensure the care and protection of children has caused the incidents of foster care abuse and neglect to increase. Statistics of foster care abuse reveal that “children in foster care suffer abuse ten times more often than children in the general population.” Even more unbelievable are the child abuse fatality statistics suggesting “that a child is nearly three times more likely to die of abuse in foster care than in the general population.” Since the foster care population in the U.S was reported around 424,000 in 2009, these statistics equate to a tremendous exposure to harm for children.

“The Children’s Bureau established a national standard for the absence of maltreatment in foster care as 99.68 percent, defined as: “Of all children in foster care during the reporting period, what percent were not victims of a substantiated or indicated maltreatment by foster parents or facility staff members?” This is appalling because it permits a percentage of abuse as acceptable. For example, according to the U.S. of Health and Human Services 24 children, out of the 5,616 that were in foster care on September 30, 2009, were reported to be “maltreated” while in foster care in Ohio. Although these numbers may meet national standards, these 24 children were abused instead of protected. Furthermore, many cases of child abuse and neglect

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70 19% Id.
71 Id.
72 Arcaro, supra note 30, at 647.
74 Arcaro, supra note 30, at 647.
75 THE AFCARS REPORT, supra note 66.
76 Arcaro, supra note 30, at 647.
77 “Maltreated” means neglect, physical abuse, sexual abuse, psychological abuse.
78 CHILD MALTREATMENT 2009, supra note 52.
79 Id.
in foster care either go unreported or are found by CPS as unsubstantiated\(^{80}\) and therefore are dismissed.\(^{81}\)

The actual amount of abuse in foster care is likely to be far higher than reported figures indicate, as agencies have an inherent incentive not to investigate such reports. For child welfare agencies to investigate their licensed foster care agents means they would be, in effect, investigating themselves. Given the agencies’ lawful discretion to physically move children placed in their temporary legal and physical custody from one placement to another, many complaints of foster children have escaped judicial scrutiny.\(^{82}\)

A 1990 study found that only 40% of maltreatment cases and 35% of the most serious cases known to professionals mandated to report, were in fact reported or otherwise getting into the child protection system (CPS). A study published one decade later found that approximately 65% of social workers, 53% of physicians and 58% of physician assistants, were not reporting all cases of suspected abuse.\(^{83}\)

Underreporting has also been linked to the ambiguity of the statutes mandating certain people to report child abuse and the ignorance of certain people that they are required to report the child abuse.\(^{84}\) Some of the reasons why mandated reporters do not report include:

“insufficient evidence, lack of certainty that abuse has occurred, the belief a report will cause additional harm, and the need to maintain a good relationship with patients and clients.”\(^{85}\)

Although it was reported that over 3 million children were abused and neglected in 1999, most of these cases will not receive an investigation.\(^{86}\) The Third National Incidence Study of Child Abuse and Neglect [NIS-3] reported that “only 28%-33% of America’s maltreated children

\(^{80}\) For example, in Missouri, “approximately eighty percent of child maltreatment reports were not substantiated and yet this large number of initially unsubstantiated victims comprises more than three quarters of the victims that later return to the attention of the child welfare system.” Vieth, *supra* note 21, at 13.

\(^{81}\) *CHILD MALTREATMENT 2009, supra* note 52.

\(^{82}\) Arcaro, *supra* note 30, at 657-58.

\(^{83}\) Vieth, *supra* note 21, at 9.

\(^{84}\) *Id.* “For example, a survey of mandated reporters in Iowa revealed difficulty in determining whether a given injury was reportable under Iowa law.” *Id.*

\(^{85}\) *Id.* at 9-10.

\(^{86}\) *Id.* at 11-12.
have their cases investigated by CPS.”⁸⁷ These statistics reported by NIS-3 reveal the CPS system reaching its capacity to respond and help when children are reported to be abused and neglected.⁸⁸

State courts are in conflict regarding liability of foster care abuse because the U.S. Supreme Court has not had a case specifically addressing liability of abuse in foster care.⁸⁹ Therefore, many times, “individual foster care abuse claims are denied on several other grounds, including qualified immunity, lack of ‘deliberate indifference,’ and no ‘state action.’”⁹⁰

“Although the Supreme Court has not ruled on whether a state has a constitutional duty to protect foster children from abuse, under title 42, section 1983 of the United States Code,⁹¹ the

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⁸⁷ Id. See also Andrea J. Seldak & Diane D. Broadhurst, U.S. Dep't. of Health & Human Servs., Third Nat'l Incidence Study of Child Abuse & Neglect 7-16 (1996).
A more recent study finds that nearly two-thirds of reports are screened into the CPS system but that investigations result in only 27.5 of the cases as being substantiated for abuse or neglect. In each of the past five years, abuse has been substantiated in no more than twenty-nine percent of the cases accepted for referral. And U.S. Dep't of Health & Human Servs. Admin. on Children, Youth and Families, D.C., Child Maltreatment (U.S. Gov't Printing Office 2003).
This data suggests that the reporters, investigators, or both, are performing poorly in locating and assisting abused children. One problem may be the sheer number of reports that must be investigated. The average CPS investigator conducts sixty-nine investigations per year--more than one per week. Given that a quality investigation may require interviewing numerous witnesses, searching the premises where the alleged abuse took place, collecting and reviewing data from numerous other agencies, CPS investigators may simply lack the time to conduct competent investigations. This is particularly so when we recall that investigators may have many other duties as well. In rural communities, for example, the investigator is often responsible for providing ongoing services. Id.

⁸⁸ Vieth, supra note 21, at 11-12.
⁸⁹ Marzick, supra note 11, at 509.
⁹⁰ Id.
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.
Court recognized the possibility of this duty in *DeShaney v. Winnebago County Department of Social Services.* 92 "In the foster care context, the state always retains legal custody; when it places a child it cedes only physical custody." 93 Therefore, it would be consistent with *DeShaney* if foster parents were found to be state actors, under title 42, section 1983 of the United States Code; this would allow the state to maintain legal custody of the child, and accordingly hold the state responsible to act if it knew of the child abuse. 94

In *Jensen v. Conrad,* 95 the Fourth Circuit held that the state may owe a constitutional duty to prevent harm to an abused foster child when the child abuse is reported to the state child protection officials. In *Bowers v. DeVito,* 96 the Seventh Circuit followed suit, recognizing that the Constitution protects not only those in state custody, but also those the state places in a position of danger and then leaves defenseless. Both courts relied on the state's "special relationship" to the plaintiffs to find an affirmative state duty to protect... The "special relationship" doctrine led some courts to find a right to safety for foster children. In *Doe v. New York City Department of Social Services* 97 the Second Circuit... (found) that the child welfare agency responsible for placing children in foster care had an affirmative duty to protect those children. When the

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92 *DeShaney v. Winnebago County Dep't of Social Services*, 489 U.S. 189 (U.S. 1989); see Dee, *supra* note 73, at 1208-10 (analyzing *DeShaney*).

The Court held that a child under the supervision of the state's child protection system, but in the custody of his father, had no cause of action for the state's failure to protect him from abuse. The court based its holding on the state's noncustodial relationship with the child. Because the Constitution is a document of negative liberties, meant to protect individuals from state action, it places no affirmative duty on the state to protect individuals from third-party abuse. However, the Court specifically left open the question of whether such a duty arises when a child is placed in foster care. *Id.*

93 Dee, *supra* note 73, at 1226-27.

94 *Id.*


96 Bowers v. DeVito, 686 F.2d 616, 618 (7th Cir.1982).


In *Doe*, the complaint alleged that the defendant, Catholic Home Bureau (a private placement agency), failed to supervise the placement of the plaintiff in foster care and to report the subsequent abuse to the New York City Department of Social Services. The foster parents raped, beat, and removed the plaintiff from school. The district court judge instructed the jury that they could find the defendant liable only if the defendant actually intended to harm the plaintiff. The jury found for the defendant and the plaintiff appealed. *Id.*
government takes individuals into their custody, the custodial relationship creates “affirmative duties” in the custodians; thus the agency had a duty to protect the child from sexual assault while in foster care. 98

Courts currently recognize a constitutional right to safety and adequate care for prisoners and the mentally impaired in state custody. While authority exists for a right to safety for foster children, there is no general consensus. As a matter of legal principle and policy, this right should extend to foster children. Courts distinguish prisoners and the institutionalized mentally impaired from all others because of their custodial status. However, the same conditions apply to foster children. In addition, the state removes foster children from their parents, possibly placing them in a more dangerous position. As a matter of policy, the law should hold the states accountable for the child's safety and care. 99

Federal legislation has also been enacted in an effort to address the many problems associated with child maltreatment facing the United States. The federal government first passed the Child Abuse Prevention and Treatment Act of 1974 [CAPTA] 100 with the intention to provide financial support and improve the standards of operation for the many child protective services. 101 CAPTA “required states to pass reporting laws for known cases of child abuse, provide for prompt investigation of child abuse complaints, and also provide for the appointment of a guardian ad litem to represent the best interest of child victims of abuse and neglect.” 102

98 Dee, supra note 73, at 1206-07.
99 Id. at 1228-29.
101 Arcaro, supra note 30, at 683.
102 Id. at 648-49. However, CAPTA failed: Based on child development theory, many policy makers of the 1970s became convinced that lengthy foster care placements resulted in significant harm to children. Foster children were being harmed in many other ways. Foster care placements were often utilized as a substitute for providing much needed reunification services to families. Children were not only remaining in foster care for extended periods of time, they were often experiencing multiple placements. Financial incentives were wrongly placed on keeping children with special needs in foster care instead of promoting their placement in pre-adoptive homes and reliable data was not being adequately collected on the number of children actually using foster care services-making it difficult, if not impossible, to evaluate program services. Id.
After CAPTA failed to provide an adequate remedy to address the occurrence of child maltreatment facing the United States, the federal government passed the Adoption Assistance and Child Welfare Act [AACWA] of 1980.\textsuperscript{103} The main goals of the AACWA were

1) to provide families with sufficient pre-placement, remedial, and support services to keep families together and prevent removal of the child; 2) to provide appropriate care and services to children in foster care; and 3) to reunify families where possible or expedite permanency by locating permanent adoptive homes for children that could not be reunited with their parents.\textsuperscript{104}

The AACWA ended up falling short of its goals though because of several procedural defects and the lack of serious consequences for a state’s failure to comply with its terms.\textsuperscript{105} The federal government then attempted to remedy these procedural problems through the Adoption and Safe Families Act [ASFA] of 1997.\textsuperscript{106} The ASFA’s two primary objectives were “to prevent children from being returned to unsafe homes and [to] diminish the ‘foster care drift’ by finding safe, loving, and permanent homes for children who cannot be reunited with their families.”\textsuperscript{107}

Although, like the AACWA the ASFA failed to alleviate the problems in the foster care system. Instead, the system, created to allow reimbursement between federal and state government, continued to reward states for leaving children in foster care, permitting the number of children in long term foster care to increase and defeating the purpose for which it was created.\textsuperscript{108}

State statutes have been enacted by all states to address foster care abuse also. Ohio statutes define the different forms of child abuse, the expected mode of conduct, the liabilities of those who disobey the law, and the punishments for engaging in the stated forms of unacceptable

\textsuperscript{103} Pub. L. No. 96-272.
\textsuperscript{104} Arcaro, \textit{supra} note 30, at 648-49.
\textsuperscript{105} Marzick, \textit{supra} note 11, at 507.
\textsuperscript{106} Pub. L. No. 105-89.
\textsuperscript{108} JOHN E.B. MEYERS, A HISTORY OF CHILD PROTECTION IN AMERICA 305-07 (2004).
behavior.\textsuperscript{109} Ohio Revised Code states that parents, guardians, custodians, persons having custody or control, and persons in loco parentis of a child, have a duty of care, protection, and support, to not create a substantial risk to the health or safety of said child.\textsuperscript{110} According to that Code, whoever engages in the following list of activities toward children violates the law and is guilty of endangering children:

(1) Abuse the child;
(2) Torture or cruelly abuse the child;
(3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;
(4) Repeatedly administer unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;
(5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter . . . \textsuperscript{111}

A violation of the law, by engaging in the prior acts, results minimally in a misdemeanor of the first degree for abusing the child, unless previously convicted of an offense under this section of law, then it is a felony of the fourth degree.\textsuperscript{112} If a violation of this section results in serious physical harm to the child involved, a felony of the third or second degree will result; the worst punishment given in violation of this section is a mandatory prison term and the ordering of the offender to make restitution.\textsuperscript{113}

\textsuperscript{109} See OHIO REV. CODE ANN. § 2919.25 and § 3113.31 (2011).
\textsuperscript{110} Endangering children. OHIO REV. CODE ANN. § 2919.22 (2011).
\textsuperscript{111} Id.
\textsuperscript{112} Id.
\textsuperscript{113} Id.
Child abuse is also addressed in the Ohio Revised Code under the term “domestic violence.”

Under the Ohio Revised Code:

(A) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(B) No person shall recklessly cause serious physical harm to a family or household member.

(C) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

A violation of the law, by engaging in the prior acts, results minimally in a misdemeanor of the fourth degree to a misdemeanor of the first degree and mandatory prison sentence, depending on which sections of this code were violated, prior violations of this section, and the pregnancy status of the victim.

A victim of domestic violence, under the Ohio Revised Code, may seek legal relief on their own behalf, or any parent or adult household member may seek relief for them. Initially, the courts may grant a temporary protection order for the victim and order the offender to stop the abusive behavior, possibly even requiring them to continue supporting the victim financially, seek counseling, and refraining from entering the residence, school, business, or place of

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114 Definition of Domestic Violence. OHIO REV. CODE ANN. § 3113.31 (2011):
The occurrence of one or more of the following acts against a family or household member: 1) Attempting to cause or recklessly causing bodily injury; 2) Placing another person by the threat of force in fear of imminent serious physical harm; 3) Committing any act with respect to a child that would result in the child being an abused child; 4) Committing a sexually oriented offense.

115 OHIO REV. CODE ANN. § 2919.25 (2011). "Family or household member" means any of the following people who resides or has resided with the offender:
(i) A spouse, a person living as a spouse, or a former spouse of the offender;
(ii) A parent, a foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender;
(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.

117 Id. The state of Ohio encourages holding offenders of these laws accountable by not charging any fees to people for filing charges against them. Id.
118 OHIO REV. CODE ANN. § 3113.31 (2011).
employment of the victim, family, or household member.\textsuperscript{119} The courts may grant a temporary change in a parent’s right to spend time with a victimized child, even requiring the public services agency to provide supervision of this time.\textsuperscript{120}

Today, under the doctrine of parent’s patriae\textsuperscript{,121} the state has the authority to protect children from abuse.\textsuperscript{122} Once the state removes a child from an abusive home or from his parent, the state assumes the role of primary caregiver and therefore the obligation of safekeeping.\textsuperscript{123} Sometimes, the state’s interest in protecting children from abuse and neglect, conflicts with a parent’s fundamental liberty interest\textsuperscript{124} in raising and caring for his children.\textsuperscript{125} Typically, child protection proceedings, sometimes known as dependency proceedings, authorize the state to intervene when children are suspected of being abandoned, abused, or neglected.\textsuperscript{126} In many jurisdictions, in what some call the “federalization of child protection legislation,” the state’s legislative intent is to “provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.”\textsuperscript{127}

Child protective services [CPS] agencies function in each state to serve and protect children from abuse and neglect.\textsuperscript{128} Typically after a child protection services agency receives a
report of alleged child abuse, it is then required to investigate the report in order to see if it is substantiated. If the child protection services agent cannot reasonably assure the child’s safety upon investigation, the child may be removed from their home and temporarily placed in a foster home. Upon removal of the child, the state is required to respect the parent’s due process rights by giving the parent notice and a hearing, and proving that the parent is unfit, by a preponderance of the evidence. If during the hearings, it is decided that a voluntary agreement with the parents will not be sufficient to remedy the child maltreatment, the state may petition for temporary custody of the child and place the child in foster care. The child may remain in foster care until the parents meet the requirements of a case plan set up by the child protection services agency or the time limit to accomplish this expires; at which time the parent’s rights are terminated and the child becomes a ward of the state, permitting them to be adopted.

The many statutes, laws, and procedures in place to deal with the problems in the foster care system, including foster care abuse and neglect, are not enough. Foster care abuse is still

Child protective services (CPS) agencies use a two-stage process for handling allegations of child maltreatment: (1) screening and (2) CPS response. During the screening stage, an initial notification—called a referral—alleging child maltreatment is received by CPS. In most States, a referral can include more than one child. Agency hotline or intake units conduct the screening process to determine whether the referral is appropriate for further action. Referrals that do not meet agency criteria are screened out or diverted from CPS to other community agencies. CPS agencies conduct a response for all screened-in referrals—called reports. The response may be an investigation, which determines if a child was maltreated or is at-risk of maltreatment and establishes whether an intervention is needed or not. The majority of reports receive such investigations. A small, but growing, number of reports are handled by an alternative approach, which focuses primarily upon the needs of the family and may or may not make a determination regarding the alleged maltreatment. Id.

129 Arcaro, supra note 30, at 645. See ODJFS, supra note 44 (describing for supervisors and caseworkers, the procedures and processes that caseworkers are required to take when they receive reports of child abuse and neglect. They are the people who make the decisions that critically impact children and families, including responding to and investigating alleged reports of child abuse and neglect and deciding the appropriate recourse for each report).
130 Arcaro, supra note 30, at 645.
131 Id.
132 Id. at 644-46.
133 Id.
happening today to many children. In order to reduce the abuse children are experiencing in foster care new solutions need to be implemented. Foster care abuse can be reduced by implementing programs through state legislation which would provide for community partnerships and provisions when children in foster care are connected to community safety nets which could include: community-wide preventative measures, community-based third-party advocate centers, community partnerships between caseworkers and faith based organizations, and mandatory legal representation for children when they have allegedly been abused, abandoned, or neglected.

**Part III: Positive Solutions to Reduce Foster Care Abuse**

Foster care abuse can be reduced by implementing programs through state legislation which would provide for community partnerships and provisions when children in foster care are connected to community safety nets including: community-wide preventative measures, community-based third-party advocate centers, community partnerships between caseworkers and faith based organizations, and mandatory legal representation for children when they have allegedly been abused, abandoned, or neglected. These positive solutions to reduce foster care abuse can and need to be implemented by states to end the unnecessary and tragic continued harm to children by foster parents.

**1. Assigning a Guardian Ad Litem to Every Reported Child Abuse Case**

Since the federal government passed CAPTA in 1974, the appointment of a Guardian ad Litem [GAL] is required to represent children in judicial proceedings. The GAL, whether

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134 See supra notes 73-74.
135 CAPTA, supra note 100.
an attorney or a court-appointed special advocate [CASA], represents the best interest of the child, provides a voice for the child, stands in the child’s place, and substitutes his judgment for the child’s. The GAL/CASA is an officer of the court and is not bound by confidentiality, and can therefore be called as a witness and cross-examined by the parties. Under this best interest model, the GAL advocates for what the GAL believes is best for the child; the GAL does not represent the child’s wishes or legal interests.

For example, under Ohio Revised Code, a GAL is appointed, as soon as possible after the filing of the case, to protect the interests of a child in any proceeding concerning an alleged abused or neglected child. The GAL protects the best interest of the child through many activities including: “investigation, mediation, monitoring court proceedings, and monitoring the services provided the child by the public children services agency or private child placing agency that has temporary or permanent custody of the child . . . [and filing] any motions and other court papers that are in the best interest of the child.” Although the GAL may not be the attorney responsible for presenting the evidence alleging that the child is an abused or neglected child nor an employee of any party in the proceeding, the GAL may be an attorney that functions as a GAL and legal counsel for the child. If the GAL is not an attorney, the court may also appoint an attorney to represent the legal interests of the abused child.

Therefore, the best model to protect foster children from abuse would include assigning a GAL to every reported child abuse case in order to represent the child’s best interests and assigning an attorney in order to represent the legal interests of the abused child.

137 Id.
138 Id.
139 Id.
141 Id.
142 Id.
143 Id.
2. Assigning Mandatory Legal Representation for the Children in Abuse Cases

Assigning mandatory legal representation for the children in abuse cases, to work alongside a GAL, would allow the attorney to represent the child’s wishes as a client, providing ethical and professional legal services like those provided for an adult. This would allow the GAL to focus specifically on representing the child’s best interest from an objective viewpoint and the child’s attorney to focus on specifically representing the child’s wishes and legal interests from a subjective viewpoint. This would allow children a voice in what happens to them; as it is stated a “child's voice frequently disappears into the abyss of the child welfare system once the child is placed in foster care.” Independent representation for dependent children is necessary in order to protect their interests and rights.

Children enjoy no federal constitutional rights to programs for protection from abuse and exploitation, and no rights to basic nutrition, income supports, shelter, and healthcare; [therefore] they are at a distinct disadvantage in prevailing against agency bureaucracy. Inconsistent representation in child protection proceedings serves to reinforce the disenfranchisement of foster children, and limits the court's ability to accurately determine what is in a child's best interest. Without the voice of a court appointed advocate that has knowledge of the child's past and present circumstances, history proves that the vast majority of all foster children will remain in status quo. An independent voice for the child can direct the court's attention to: inappropriate placements, therapy concerns, visitation rights, educational needs, and physical or sexual abuse allegations stemming from a placement—all of which impact the welfare of the child but may be filtered through agency discretion.

144 Teske, supra note 136.
145 Arcaro, supra note 30, at 668-69.
146 Id.
147 Id.
Although every state has enacted legislation to provide for a child to have legal representation in protection proceedings, many states have failed to meet this obligation.\textsuperscript{148} “[At] a minimum, children deserve—and have an established right to—a competent attorney to represent their legal interests and expressed wishes in abuse and neglect proceedings.”\textsuperscript{149}

Therefore the best model to protect foster children from abuse would include the provision of mandatory legal representation to work alongside a GAL in representing the child’s best interests in abuse cases.

3. HALOS’s

By partnering child protection workers with America’s faith based community organizations, to help meet the needs of the children in the community, many instances of child abuse can be eliminated.\textsuperscript{150} “[A] creative initiative for involving the faith community in child protection efforts has arisen in Charleston, South Carolina, through the work of Helping and Lending Outreach Support [HALOS].”\textsuperscript{151} HALOS is a partnership between around fifty faith organizations and the local child protection community that strives to prevent child abuse through many community based initiatives.\textsuperscript{152} For example, one of HALOS’ projects entails “adopting” a child protection worker; whereby the child protection worker can ask the faith organization that has adopted her for assistance when she has a child in foster care that is not getting his needs met through government assistance.\textsuperscript{153} “HALOS also provides children in need

\textsuperscript{149} Teske, \textit{supra} note 136, at 28.
\textsuperscript{150} Vieth, \textit{supra} note 21, at 48.
\textsuperscript{151} \textit{Id.} at 52-53.
\textsuperscript{152} \textit{Id.}
\textsuperscript{153} Some examples include “registration for little league baseball, a bunk bed, or a prom dress” \textit{Id.}
with back to school supplies and has a self enhancement program that provides them with scholarships for music, art, drama, dance and sports.”

Therefore the best model to protect foster children from abuse would include the partnering of child protection workers with faith based community organizations in order to help meet the needs of the children in the community. Allowing people to become aware of the needs of children within their community will allow them to help and participate in reducing child abuse by ending the cycle of poverty and child maltreatment.

4. Preventive Measures to Reduce Child Abuse within the Community

Utilizing preventative measures can reduce child abuse within the community when the state government begins funneling resources into supportive community structures and institutions to facilitate children’s wellbeing instead of paying private companies and foster parents to care for children the state has removed from parents and homes. This would include the state creating and supporting structures and institutions that support the well-being of children and the parent’s caretaking of children, like schools and neighborhoods. The state could help reduce child abuse within the community through preventative measures by helping parents to care for their children’s physical, emotional, and financial needs including “ensuring the availability and adequacy of; child care for young children whose parents work, programs to deal with parental substance abuse, mental health services for parents and children, financial aid services to assist poor families with meeting their basic needs, including housing, and supportive community systems.”

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154 Id.
155 Eichner, supra note 46, at 466.
156 Id.
157 Id. at 466-72.
Therefore the best model to protect foster children from abuse would include the state government funneling resources into supportive community structures and institutions to facilitate children’s wellbeing and help prevent abuse.

5. Assigning an Ombudsman\textsuperscript{158} to Advocate for Children in Foster Care

Assigning an ombudsman to advocate for children in foster care may help assure their needs and rights are met. Enacting by statute, a third party community based organization, to assist with the investigation and gathering of information and assuring the needs and rights of all the children involved in foster care are met, child abuse within the community can be reduced.

An ombudsman is “an independent, nonpartisan spokesperson whose goal is to ensure that an agency behaves in an acceptable manner and in doing this, has the power to investigate, criticize, and publicize.”\textsuperscript{159} An ombudsman represents specific groups of people, as opposed to individual parties, and can investigate reports of abuse before a claim is filed.\textsuperscript{160} A foster care ombudsman office, “as its own entity or as a subset of the state's existing child welfare agency” can “ensure that state child welfare and foster care agencies are adequately performing their duties.”\textsuperscript{161}

Foster care ombudsman offices can work together with legal organizations like Children’s Rights Inc.\textsuperscript{162} to offer the lawyers information from the investigations indicating what is currently happening in the foster care system, so they can successfully litigate claims on behalf of those children.\textsuperscript{163} Otherwise, these child advocacy lawyers would not be able to investigate or compel discovery until after the lawsuit was filed.\textsuperscript{164} Having ombudsman offices located within

\begin{footnotesize}
\textsuperscript{158} “Ombudsman” is someone who acts on the behalf of other people. Marzick, supra note 11, at 511.
\textsuperscript{159} Id.
\textsuperscript{160} Id.
\textsuperscript{161} Id. at 512.
\textsuperscript{162} CHILDREN’S RIGHTS INC., supra note 55.
\textsuperscript{163} Marzick, supra note 11, at 510.
\textsuperscript{164} Id.
\end{footnotesize}
the community, allows foster children a chance to become more familiar with them and feel comfortable seeking assistance from them.\textsuperscript{165} When children who are experiencing abuse have an opportunity to be heard and represented by an advocate, they are empowered to effectuate change within their community to end the cycle of foster care abuse.\textsuperscript{166}

Seven principles identified to aid in the success of child ombudsman offices are:

(1) The monitoring structure should be a “voice for children”;
(2) The office should be politically independent;
(3) The office should be financially independent;
(4) The ombudsman must be accessible to the population;
(5) The office should be close to decision-making institutions;
(6) The office must work for, and within, networks at state and local levels, as well as at the nongovernmental level; and
(7) The ombudsman should be established by legislation or in some way be given the proper authority to carry out its functions.\textsuperscript{167}

Therefore the best model to protect foster children from abuse would include the assignment of an ombudsman within each community to advocate for children in foster care and to help assure their needs and rights are met.

6. Better Preparation and Training of People to Identify and Handle Abuse

Adequately preparing and training all the people who are involved with and come into contact with abuse victims will allow them to better identify abuse and know how to handle the situation and children effectively.\textsuperscript{168} This would include police workers, caseworkers, social workers, doctors, counselors, teachers, and prosecutors.\textsuperscript{169} Training these individuals to detect and report abuse, will allow them to help protect child victims by beginning the process of ending the abuse children are experiencing every day.\textsuperscript{170} This training would include every

\textsuperscript{165} Id.
\textsuperscript{166} Id. at 510-11.
\textsuperscript{167} Identified by a 1990 UNICEF International Child Development Center Conference in Florence, Italy. Id. at 512.
\textsuperscript{168} Vieth, supra note 21, at 19-21.
\textsuperscript{169} Id.
\textsuperscript{170} Id.
university teaching students, entering professions with mandating reporting requirements, the necessary skills to competently identify and report abuse as part of their education certification, and every professional, mandated to report, receiving annual training in the identification and their obligation to report child abuse.\textsuperscript{171}

In order to help children once abuse has been detected, child protection workers and police officers must be able to competently investigate claims and pursue appropriate legal actions.\textsuperscript{172} This competence can be accomplished through training these professionals in the “science and art of speaking to children” and what to do when children do not respond well to an investigative interview.\textsuperscript{173}

Therefore the best model to protect foster children from abuse would include the adequate preparation and training of all the people, who are involved with and come into contact with abuse victims, to allow them to better identify abuse, know how to handle the situation, and effectively help the children involved.

7. \textit{“One Strike You're Out.”}

A “one strike you’re out” philosophy prohibits an abusive foster family from repeating abusive behavior by removing them from the state’s families of available foster care providers and never allowing them to be foster parents again after they have been reported as abusers.\textsuperscript{174} This strict procedure of removing the abusive foster parents from the state’s families of available foster care providers would eliminate the possibility of continued abuse to future children that may pass through the foster care system.\textsuperscript{175}

\textsuperscript{171} \textit{Id.}
\textsuperscript{172} \textit{Id.} at 21-28.
\textsuperscript{173} This is possible through the development of state of the art forensic interviewing courses locally run and taught in each state. \textit{Id.}
\textsuperscript{174} “One strike you’re out is a term created by Lynne M. Kohm JD, Family Law Professor at Regent University.
\textsuperscript{175} \textit{See, e.g.}, Meredith Cohn, \textit{Auditors find gaps in monitoring of foster children: Agency placed children with providers accused of abuse or neglect}, Mar. 25, 2011, \textit{THE BALTIMORE SUN.} available at
Conclusion

Stories of foster care abuse experienced by children like Logan, Stephanie, Bruce, Faheem, and many others happen every day. These children have already experienced abandonment, abuse, or neglect by their biological parents when the state places them into the foster care system. Allowing these children to continue to be abandoned, abused, and neglected in the foster care system defeats the purpose for which foster care was created - to provide children a safe home where their basic needs can be met until they can be placed back in their home with their parents or eventually be adopted.

The unnecessary and tragic abuse children are experiencing while in the foster care system can be reduced, and eventually eliminated, through the implementation of several solutions by the state. Foster care abuse can be reduced when children in foster care are connected to the following community safety nets: community-wide preventative measures, community-based third-party advocate centers, community partnerships between caseworkers and faith based organizations, and mandatory legal representation for children to work alongside a GAL, when children have allegedly been abused, abandoned, or neglected.

One solution alone is not enough to eliminate foster care abuse. Rather several solutions can and need to be implemented by states to end the unnecessary and tragic continued harm to children by foster parents.

http://articles.baltimoresun.com/2011-03-25/news/bs-social-services-audit-20110325_1_abuse-or-neglect-parents-care-providers; (stating officials placed at least 32 children in foster homes despite credible evidence that the foster parents had abused or neglected children); and Nora Meltzer, Dismissing the Foster Children The Eleventh Circuit’s Misapplication and Improper Expansion of the Younger Abstention Doctrine in Bonnie L. v. Bush. Winter 2004, 70 BROOK. L. REV. 635, 671 (stating that some children are sent to live with abusive foster parents, who abuse continues, unheeded by caseworkers whose caseloads are too heavy).

177 Ramsey, supra note 19.
178 Id.