

Glossary

The following list defines commonly used medical, psychological, legal, and educational terms and definitions as they apply to matters of child welfare and the juvenile court system. For sociological and cultural terms, see Cultural Diversity Vocabulary in Chapter 3.

A

ABANDONMENT

The act of a parent or caretaker leaving a child without adequate supervision or provision for his/her needs for an excessive period of time. State statute may define a certain period of time as constituting legal abandonment.

ABRASION

A wound in which an area of the body surface is scraped of skin or mucous membrane.

ABUSED JUVENILE

Defined by state statute. Generally, the child recipient of any physical injury, sexual abuse, or emotional abuse inflicted other than by accidental means by a person responsible for his/her care, custody, and control.

ACCULTURATION

The process of integrating into a culture other than one's own.

ADJUDICATION

The process of giving a judicial decision as to whether the facts alleged in a petition or other pleading are true.

ADJUDICATORY HEARING

The full court proceeding in which it is determined whether the allegations of the petition are supported by legally admissible evidence.

ADOPTION

The social, emotional, and legal process through which children who will not be raised by their birth parents become full and permanent legal members of another family while maintaining genetic and psychological connections to their birth family. Adoption as a formal legal process is not found in most tribal cultures. Cultural adoptions as a traditional practice may be formalized through a ceremony, such as a naming ceremony. Cultural adoptions establish relationships for family that are referenced from that point forward.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980 (PL 96-272)

A federal law mandating that in order to be eligible for federal funds, states must document that they have, when possible, made reasonable efforts to provide preventive and reunification services to families when children have been placed out of the home. Removal of children from the home must be pursuant to a judicial determination and there must be periodic reviews of the case. *See Chapter 2 for additional information.*

AFFIDAVIT

A statement of facts, which is sworn to (or affirmed) before an officer who has authority to administer an oath (e.g., a notary public). Before signing this statement, the person signing takes an oath that the contents are, to the best of his/her knowledge, true. It is also signed by the person administering the oath, to affirm that the person signing the affidavit was under oath when doing so. These documents carry great weight in courts, to the extent that judges frequently accept an affidavit in place of the testimony of the witness.

AGGRAVATED CIRCUMSTANCES

Any factor involved in the commission of an act of abuse or neglect that increases its enormity or adds to its injurious consequences, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.

ALLEGATION

An assertion or statement of a party to a legal action, which sets out what he/she expects to prove.

ANXIETY

Persistent feelings of apprehension or fear resulting in decreased perception of well-being and ability to function.

APPEAL

The attempt to have a final order of a trial court changed by seeking review of a higher court. Usually appeals are made and decided on questions of law only; issues of fact (e.g., did the minor suffer an accident, or was he intentionally injured?) are left to the trial judge or jury, and seldom can be decided in an appeal.

ARRAIGNMENT

The bringing of a person accused of a crime before a court to be advised of the charges against him/her and to state his/her answer to the charges.

ASSAULT

Intentional or reckless threat of, or actual, physical injury to a person. Aggravated assault is committed with the intention of carrying out a threat of other crimes. Simple assault is committed without the intention of carrying out the threat of other crimes or if the attempt at injury is not complete.

ATTACHMENT

The psychological connection between people that permits them to have significance to each other. An affectionate bond between two individuals that endures through space and time and serves to join them emotionally. A strong and enduring bond of love that develops between a child and the person(s) he/she interacts with most frequently.

ATTENTION-DEFICIT DISORDER with or without Hyperactivity (AD/HD)

A behavioral diagnosis in which children express or exhibit symptoms of inattention, distraction, restlessness, inability to sit still, and difficulty concentrating. Thought to be caused by both inherited and environmental factors. Treatable through behavior management and/or the use of medication.

AUTISM

A developmental disability affecting verbal and nonverbal communication and social interaction. It is generally evident before age 3. Some persons with autism are unable to speak at all, or if they do, use peculiar patterns of language. Autism is a physical disorder that distorts the way the brain processes information. Causes of autism include trauma at birth, prenatal viruses, encephalitis, spinal meningitis, tuberous sclerosis, and rubella (German measles). Autism occurs in 10 of every 10,000 births. Four out of five autistic persons are boys.

B

BAILIFF

A law enforcement officer, usually a deputy sheriff, assigned to a courtroom to keep peace and assist the judge, courtroom clerks, witnesses, and jury. A court attendant whose actual duties vary according to jurisdiction and judge but often include maintaining order in the courtroom.

BATTERED CHILD SYNDROME

A medical condition, primarily seen in infants and young children. Evidence of the syndrome includes repeated nonaccidental injury to the nerves, skin, or skeletal system. Frequently, the history given by the caretaker does not explain the nature of occurrence of the injuries. Also called “parent-infant-trauma syndrome” (PITS) or “maltreatment syndrome.”

BATTERED WOMEN

Women who are victims of nonaccidental physical and psychological injury inflicted by a partner. There is often a relationship between partner abuse and child abuse, with both occurring in the same family.

BEST INTEREST OF THE CHILD

A standard for the court to use in deciding the disposition of a case following an adjudication of abuse or neglect, or following a termination of parental rights (TPR) proceeding. The standard that the CASA/GAL volunteer uses in choosing a course of advocacy for every child.

BONDING

The psychological attachment of a caregiver (usually a mother) to a child, which develops during and immediately following childbirth. The aptitude for bonding, which appears to be crucial to the development of a healthy parent-child relationship, may be observed immediately following delivery to help identify potential families-at-risk.

BURDEN OF PROOF

The duty to prove allegations of a petition in a court hearing. It is the petitioner’s responsibility to prove the case. Neither the child nor the parents have the duty to explain unproven allegations.

C

CALENDAR

The court calendar is the list of cases to be called for hearing before a particular judge.

CARETAKER

Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting, including a stepparent, a foster parent, an adult member of the juvenile’s household, an adult relative entrusted with the juvenile’s care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile’s health and welfare in a residential childcare facility or residential educational facility.

CASA/GAL VOLUNTEER

A volunteer child advocate who works to see that a child’s best interest is served in a court case.

CEREBRAL PALSY

A disability resulting from damage to those parts of the brain that control and coordinate the muscles. This brain damage occurs before or during birth or in the first few years of life. Causes are lack of oxygen to the developing brain, infections or disease, physical injury, premature birth, or maternal-child blood type incompatibility. Cerebral palsy is neither hereditary nor contagious. About 700,000 people in the United States have cerebral palsy. Specific characteristics, which may occur alone or in combination, include spasticity, marked by tense, contracted muscles; athetosis, involuntary exaggerated movements of the arms, legs, and head; and ataxia, poor sense of balance and depth perception. Cerebral palsy may occur with other handicaps.

CERTIFICATE OF DEGREE OF INDIAN BLOOD (CDIB)

A document developed by the Bureau of Indian Affairs to identify Indian heritage and eligibility for services.

CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) (PL 93-247)

An act introduced and promoted in Congress by U.S. Senator Walter Mondale and signed into law on January 31, 1974. The act established the National Center on Child Abuse and Neglect in the HEW Children's Bureau and authorized annual appropriations. The purpose of the center is to conduct and compile research, provide an information clearinghouse, compile and publish training materials, provide technical assistance, investigate national incidence, and fund demonstration projects related to prevention, identification, and treatment. *See Chapter 2 for additional information.*

CHILD ADVOCACY

A strategy for intervention in which a helping person assumes an active role in assisting or supporting a specific child and/or family or cause on behalf of children and/or families. This could involve finding and facilitating services for specific cases, developing new services, or promoting program coordination. The advocate uses his/her power to meet clients' needs or to promote causes.

CHILD PROTECTION AGENCY

The agency with exclusive power to file abuse, neglect, or dependency petitions in court.

CHILD SEXUAL ABUSE ACCOMMODATION SYNDROME

A pattern of behavior in a child who is being sexually abused. The child victim will progress through five stages: secrecy, helplessness, entrapment and accommodation, delayed and conflicting disclosure, and retraction. Large numbers of children and their parents in proven cases of child sexual abuse exhibit this behavior pattern in order to maintain the child abuse victim within the family. However, such abuse tends to isolate the child from eventual acceptance and credibility within the larger society.

CIVIL PROCEEDING

Also called a "civil action." Includes all lawsuits other than criminal prosecutions. Juvenile and family court cases are civil proceedings.

CLEAR, COGENT, AND CONVINCING

The level of proof sometimes required in a civil case for the plaintiff to prevail. It means the judge (or jury, in some court settings) must be persuaded by the evidence that it is highly probable that the claim or affirmative defense is true. The clear, cogent, and convincing evidence standard is a heavier burden than the preponderance of evidence standard but less than beyond a reasonable doubt. This is the level of proof needed to grant emergency custody or to terminate parental rights (except in ICWA cases). *See also **Standard of Proof.***

COMMUNITY-BASED PROGRAM

A program providing nonresidential or residential services to a juvenile in the community where his/her family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate services.

COMPETENCY

The legal fitness or ability of a witness to be heard on the trial of a case. All persons are presumed to be competent witnesses, including very young children. A person challenging a witness's competency must show that either the witness cannot communicate information to the judge or jury or doesn't comprehend the difference between right and wrong.

CONCURRENT PLANNING

A permanency planning strategy for assuring an expedient permanent placement for a child. Planning for reunification occurs simultaneously with the development of alternative permanency plans, including adoption, to be used in the event that it is not possible for the child to return to his/her family of origin.

CONCUSSION

An injury to the soft structure of the brain resulting from violent shaking or jarring.

CONFIDENTIALITY

Protection from public scrutiny of information that must be kept confidential. In child abuse and neglect matters, the CASA/GAL volunteer has access to all records pertaining to the child (unless federally protected), but may release such information to other parties only by court order or as designated by law.

CONFLICT RESOLUTION

The capacity to resolve conflicts without having to resort to aggression. The process of conflict resolution may be done with the assistance of a neutral third party.

CONGENITAL

Refers to any physical condition present at birth.

CONSENT ORDER

An official agreement by all parties to settle the case upon certain specified terms and submit it to the judge for approval.

CONTEMPT

Any willful disobedience to or disregard of a court order, or any misconduct in the presence of a court. An action that interferes with a judge's ability to administer justice or that insults the dignity of the court. Contempt is punishable by fine or imprisonment or both.

CONTINUED OR CONTINUANCE

Instance when a trial, hearing, or other court appearance is postponed to a later date. This is done by order of the court, or upon agreement by the parties' attorneys and approved by the court. In most cases, the new hearing date is set at the time of the continuance.

CORPORAL PUNISHMENT

Physical punishment inflicted directly upon the body.

COURT CLERK

An officer appointed by the court to work with the chief judge in overseeing the court's administration, especially to assist in managing the flow of cases through the court and to maintain court records.

COURT ORDER/JUDGMENT

A directive issued by the court, having the authority of the court, and enforceable by law.

COURT REPORT

A written document presented to the court by the CASA/GAL volunteer stating the needs of the child and recommendations for disposition that would meet those needs.

CREDIBILITY

The believability of a person, especially a witness.

CRIMINAL PROSECUTION

The process involving the filing of charges of a crime, followed by the arraignment and trial of the defendant. Criminal prosecution may result in fines, imprisonment, and/or probation. Criminal defendants are entitled to acquittal unless charges against them are proven beyond a reasonable doubt. Technical rules of evidence exclude many kinds of proof in criminal trials, even though that proof might be admissible in civil proceedings.

CROSS-EXAMINATION

The questioning of an opposing party's witness about matters brought up during direct examination.

CUSTODIAN

The person or agency that has been awarded legal custody of a juvenile by a court. This may also be a person, other than a parent or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.

CUSTODY

The right to a child's care and control, carrying with it the duty of providing food, shelter, medical care, education, and discipline.

CYSTIC FIBROSIS

A genetic disease characterized by severe respiratory and digestive problems. The disorder involves the body's inability to regulate salt secretions. This inability leads to damage of the lungs and pancreas. It also limits the child's ability to conserve salt. Children with cystic fibrosis have chronic lung infections, scarring on their lungs that leads to lung disease, and a pancreas that does not function well. The latter causes juvenile diabetes. The child may also dehydrate quickly during exercise. Children and teens suffering from cystic fibrosis require pulmonary therapy several times a day to clear their lungs.

D

DEFICIT MODEL

A method of assessing and treating family or individual problems that focuses on a family's weaknesses, and sets as the primary goal getting them off public services. In this model, it is the caseworker's role to find out what is wrong with the family and to decide how best to "fix it."

DELINQUENT JUVENILE

Any minor who has been found by a court of law to have committed an act that would be a crime or infraction under state law or under an ordinance of local government (including violation of the motor vehicle laws) if committed by an adult.

DEPENDENT JUVENILE

A child in need of assistance or placement because he/she has no parent, guardian, or custodian responsible for his/her care or supervision, or whose parent, guardian, or custodian is unable to provide care or supervision and lacks an appropriate alternative child care arrangement.

DEPRESSION

The oldest recognized and most prevalent emotional disorder; it afflicts about 15% of adults and many children. Depression can be difficult to diagnose because of its various origins, manifestations, and degrees of severity. Endogenous depression results from

biochemical changes in the brain; reactive depression seems to be triggered by a life event such as a death or loss of property. Symptoms include significant emotional changes, including a depressed mood, sadness, and gloom; spells of crying; anxiety; irritability; feelings of guilt and remorse; inability to concentrate; indecisiveness and loss of interest; loss of self-confidence and self-esteem; and desire to commit suicide. Unrecognized depression in young children may be characterized by chronic fatigue or boredom; inability to achieve at their intellectual potential; reluctance to leave home to go to school; and hyperactivity. Treatment for both children and adults is typically a combination of psychotherapy and psychoactive drugs. Psychological testing may be needed to identify and treat the disorder.

DEVELOPMENTAL DISABILITIES

A severe, chronic disability of a person attributed to a mental or physical impairment or a combination of mental and physical impairments. A developmental disability is manifested before the person is 18 years old. It is likely to continue indefinitely and results in functional limitations in three or more of these major life activities:

- Ability to talk and express oneself, ability to understand and follow simple directives
- Ability to dress oneself, brush teeth, use the toilet, etc.
- Ability to learn colors, shapes, letters, words, foods, and the like
- Ability to walk, run, or sit in a manner that is acceptable
- Ability to make decisions or to do what is expected
- Ability to live independently
- Ability to partially support self

Some examples of developmental disabilities are the lifetime conditions of mental retardation, cerebral palsy, epilepsy, autism, and severe dyslexia.

DIFFERENTIAL DIAGNOSIS

The determination of which of two or more diseases or conditions a patient is suffering from by systematically comparing and contrasting clinical findings.

DIRECT EXAMINATION

The process by which an attorney questions his/her own witness in order to present information to the court necessary for that attorney's case. The questions are usually open-ended: "Tell the court about . . ." or "Describe the condition of the home."

DISCOVERY

A legal term referring to the pretrial disclosure of pertinent facts or documents by one or more parties to a case.

DISMISSAL

An action by the judge that removes a given case from the court.

DISPOSITION

In juvenile court, the order that determines a treatment plan for a child already proven to be abused, neglected, and/or dependent. It is the equivalent of a sentence in criminal court.

DISPOSITIONAL HEARING

The juvenile court hearing in which evidence is presented and arguments made to design the most appropriate treatment and choose the most appropriate placement for the child. In many courts, the dispositional hearing immediately follows the adjudicatory hearing. This type of hearing is not bound by the strict rules of evidence required in an adjudication.

DISSOCIATION

An involuntary, natural mechanism present in infancy and continuing throughout adulthood through which a person physically and/or mentally separates himself/herself to guard against unpleasant situations. Because children are limited in their coping abilities, they commonly use dissociation to protect themselves from all or part of their painful experiences. Dissociation may become a preferred or automatic response in children who live in a chaotic, chronically stressful, or traumatizing environment. It is these children's loss of awareness that enables them to perform, or at least survive emotionally, in their respective environments; however, the use of protective dissociation may become so extreme that it interferes with the child's functioning and development. Children's sense of identity becomes

fragmented when they regularly cope with stressful situations by disowning parts of their experiences. This fragmentation of the self may solidify into distinct patterns that are perceived by the child and others around him/her as separate personality states, or multiple personality disorder.

DISTRICT COURT

The name of one of the courts of the United States. It is held by a judge, called the district judge. Several courts under the same name have been established by state authority.

DOWN'S SYNDROME

The most prevalent genetic abnormality associated with mental retardation. It accounts for about 33% of all forms of genetically based mental retardation. Each year in the United States, some 7,000 children of all socioeconomic groups are born with Down's syndrome, representing an average rate of one in 800 births. Down's syndrome most commonly results from the presence of an extra number 21 chromosome.

DUE PROCESS

The rights of persons involved in court proceedings to be treated with fundamental fairness. These rights include the right to adequate notice in advance of hearings, the right to the notice of allegations of misconduct, the right to the assistance of a lawyer, and the right to confront and cross-examine witnesses.

E

EMANCIPATION

When a minor achieves legal independence from his/her parents by court order or by getting married before reaching the age of majority.

EMERGENCY CUSTODY

Residential placement of a child alleged to be abused or neglected in a licensed foster home, a facility operated by the child protection agency, or another home or facility approved by the court. The court, pending the adjudicatory hearing, may order such placement if the judge finds that placement with the parents is unsafe.

EMERGENCY CUSTODY HEARING

Hearing to determine if the child's immediate welfare demands continued placement out of the home.

EMOTIONAL ABUSE

The systematic diminishment of a child. It reduces a child's self-concept to the point where the child feels unworthy of respect, unworthy of friendship, and unworthy of the natural birthright of all children: love and protection.

EMPOWERMENT MODEL

A collaborative family assistance model in which the caseworker assumes that family members know best what their strengths and problems are, and that they will be most successful in accomplishing plans they create to rectify problems. The caseworker's role is to assist them in recognizing their strengths and challenges, to support that planning process, and to assist the family in implementing their plan. This may require teaching new skills.

EPILEPSY

Seizures are the primary symptom of all forms of epilepsy, which is characterized by convulsions of the muscles, partial or total loss of consciousness, mental confusion, or disturbances of bodily functions usually controlled automatically by the brain and nervous system. Epilepsy occurs in 1% of the general US population. The disorder occurs more frequently in children than in adults. In about 80% of cases, the first seizure occurs within the first decade of life. No one knows for sure why brain cells discharge abnormally and cause the symptoms of epilepsy.

EVIDENCE

Any sort of proof submitted to the court for the purpose of influencing the court's decision.

EXHIBIT

Physical evidence used in court. In a child abuse case, an exhibit may consist of X-rays, photographs of the child's injuries, or the actual materials presumably used to inflict the injuries. *See also Evidence.*

EX PARTE

A Latin term that refers to situations in which only one party (and not the adversary) appears before a judge. Although a judge is normally required to meet with all parties in a case and not with just one, there are circumstances where this rule does not apply and the judge is allowed to meet with just one side (*ex parte*), such as where a plaintiff requests an order (e.g., to extend time for service of a summons) or dismissal before the answer or appearance of the defendant(s). In addition, sometimes judges will issue temporary orders *ex parte* (i.e., based on one party's request without hearing from the other side) when time is limited or it would do no apparent good to hear the other side of the dispute. For example, if a wife claims domestic violence, a court may immediately issue an *ex parte* order telling her husband to stay away. Once he's out of the house, the court holds a hearing, where he can tell his side and the court can decide whether the *ex parte* order should be made permanent.

EXPERT WITNESS

A person who testifies at a trial because he/she has special knowledge in a particular field that might be helpful to a judge (or jury). This person is permitted to state his/her opinion concerning those technical matters even though he/she was not present at the event. Nonexpert witnesses are only permitted to testify about facts they observed and not their opinions about these facts. An example of an expert witness is a child psychologist or development specialist who testifies about the best interest of the child when custody or visitation is in dispute.

F

FAILURE TO THRIVE SYNDROME (FTT)

A serious medical condition most often seen in children under one year. An FTT child's height, weight, and motor development fall significantly below the average growth rate of normal children. It is presumed that this failure to thrive is a result of inadequate nurturing, bonding, and attachment.

FAMILY PRESERVATION SERVICES

Intensive, short-term service delivery programs that provide family therapy and skills education/training and help families obtain basic services, such as food and housing, to prevent removal of the children from the home and keep the family together.

FAMILY RISK ASSESSMENT

A written evaluation, often in a checklist format, completed after an investigative report is substantiated and at various other times throughout the case. This assessment is completed to determine the present risk to the child of remaining with or being returned to his/her family.

FELONY

One of several grave crimes, such as murder, rape, or burglary, punishable by a more stringent sentence than that given for a misdemeanor. An offense punishable by a maximum term of imprisonment of more than one year.

FETAL ALCOHOL SYNDROME (FAS)

A condition in infants resulting from heavy alcohol consumption by the mother during pregnancy. Because alcohol easily crosses the placenta, its concentration in fetal blood equals that in maternal blood. Heavy alcohol intake during pregnancy is associated with numerous adverse effects on the fetus, including mental retardation, hyperactivity, irritability, growth deficiencies, poor suck reflex in infants, and behavioral and learning disabilities. Children with FAS often have distinctive facial characteristics, such as small eyes, short noses, a flat, long upper lip area, and flattened mid-face. Following birth, the infant may suffer from alcohol withdrawal. A similar, but less severe, manifestation is called fetal alcohol effect (FAE).

FINE MOTOR FUNCTION

Primarily eye-hand coordination—the ability to receive and utilize signals from your eyes to perform tasks employing the fingers (e.g., tying shoelaces, playing electronic games, or building a model). A component of neuromotor functioning.

FOSTER CARE

A form of substitute care, usually in a home licensed by a public agency, for children whose welfare and protection requires that they be removed from their own homes.

FRACTURE

A broken bone. One of the most common injuries suffered by battered children.

FRAGILE X SYNDROME

An inherited genetic condition associated with mental retardation. It is identified by a break or weakness on the long arm of the X chromosome. Since this is an abnormality of a sex chromosome, mothers are carriers and their sons are at risk of being affected. Daughters are at risk of being carriers and sometimes of mild infection. The disorder is not transmitted from father to son.

G

GROSS MOTOR FUNCTION

The ability to facilitate and monitor feedback from the body's large muscles (e.g., during athletic activities). A facet of neuromotor functioning. Also called "large motor function."

GROUP HOME

Residential placement in a non-family living arrangement for children with special needs.

GUARDIAN AD LITEM

From Latin, meaning "guardian at law." The person appointed by the court to look out for the best interest of the child during the course of legal proceedings.

H

HEARSAY

Secondhand information that a witness only heard about from someone else and did not see or hear directly. Hearsay is not admitted in court because it is not trustworthy, as well as because of various constitutional principles, such as the right to confront one's accusers; however, there are so many exceptions that hearsay is more often admitted than excluded.

HEMATOMA

A swelling caused by a collection of blood in an enclosed space, such as under the skin or the skull.

I

IEP (Individualized Education Plan)

A written, legal document mandated by federal law to be developed for all students identified as needing special education services. It is developed in a team meeting in which parents, teachers, specialists, and the student, if appropriate, participate. The main goal of the IEP meeting is to discuss and review the educational needs of the student and write a program that identifies goals and objectives for the year.

IMMUNITY, LEGAL

Legal protection from civil or criminal liability. Some states have reporting statutes that confer qualified immunity upon persons mandated to report, if the report was made in good faith, giving them a defense against libel, slander, invasion of privacy, false arrest, and other lawsuits that the accused person might file.

IMPETIGO

A highly contagious, rapidly spreading skin disorder that occurs mainly in infants and young children. The disease, characterized by red blisters, may be an indicator of neglect or poor living conditions.

IN CAMERA

A Latin term meaning, literally, "in chambers." A hearing or judicial proceeding conducted in a judge's chambers or a private place where the public is not present.

INCEST

A sexual act between two persons who are related. Includes descent by blood or adoption, stepchild (while marriage creating their relationship still exists), brother, half-brother, sister, half-sister, niece, and nephew. Incest may occur between members of the same sex, but the most common form of incest is between father and daughter.

INDIAN CHILD

Any unmarried person who is under age 18 and either (a) is a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. (A second definition in the service provisions is wider and may give a child the opportunity to access services. This can be important where a child can be enrolled because of failure to meet a residency requirement of a specific tribe but could access culturally relevant services. A third definition is in the notice section of ICWA, which requires that a tribe be notified whenever the court knows or has reason to know the child may be an Indian.)

INDIAN CHILD WELFARE ACT (PL 95-608)

A federal law passed in 1978 that set up placement preferences for an Indian child and established the right of an Indian child's tribe and/or Indian custodian to appear as a party to a case. The law was intended to redress the historical pattern of removal of Indian children from their homes, which threatened tribal survival. *See Chapter 2 and the Chapter 8 Resource Materials for more information.*

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (PL 94-142)

A federal law passed in 1975 and reauthorized in 1990, mandating that all children receive a free, appropriate public education regardless of the level or severity of their disability. It provides funds to assist states in the education of students with disabilities and requires that states make sure that these students receive an individualized education program based on their unique needs in the least restrictive environment possible. All children ages 3 through 21 who need special education and related services because of a disabling condition are eligible.

IN LOCO PARENTIS

A Latin term referring to a person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by the court. This term is often used to refer to the court itself taking over what should be parental responsibilities.

INTERSTATE COMPACT

Agreement between all 50 states and the District of Columbia that has been passed as law by the states and been approved by Congress, governing out-of-state placements of children. It defines financial and supervisory responsibilities and guarantees constitutional protections. It requires that a court secure a home study from the local child welfare agency in any out-of-state jurisdiction where placement is being considered.

J

JURISDICTION

The legal authority and power of the court to hear particular types of cases.

JUVENILE

Any person who has not reached his/her 18th birthday and is not married, emancipated, or a member of the armed services of the United States.

K

KINSHIP CARE

Kinship care is the full-time care, nurturing, and protection of children by relatives, members of their tribes or clans, godparents, stepparents, or any adult who has a kinship bond with a child. This definition is designed to be inclusive and respectful of cultural values and ties of affection. It allows a child to grow to adulthood in a family environment.

L

LACERATION

A jagged cut or wound.

LEADING QUESTION

A question that suggests an answer or puts words in the mouth of a witness. Allowable only when directed to the opposing party in a lawsuit or to an “adverse witness” during cross-examination. Often a leading question will begin, “Isn’t it true that . . . ?”

LEAST RESTRICTIVE ALTERNATIVE

The principle that supports family autonomy, with in-home services provided by the child welfare agency only where necessary and then in the form that least intrudes on family autonomy. Consideration of placement outside the home should start at the least restrictive level: other family members, foster home, and then institutional placement, as most restrictive.

LEGAL RISK PLACEMENT

The placing of a child who is not yet legally free for adoption (but likely to be at some future time) with a family who agrees to serve as a foster placement for the time being and an adoptive family should that possibility occur.

LESION

Any injury to any part of the body from any cause that results in damage or loss of structure or function of the body tissue. A lesion may be caused by poison, infection, dysfunction, or violence, and may be accidental or intentional.

M

MALNUTRITION

Failure to receive adequate nourishment. Often exhibited in neglected children, malnutrition may be caused by inadequate diet (either lack of food or insufficient amounts of needed vitamins) or by a disease or other abnormal condition affecting the body’s ability to properly process foods.

MEDICAID

A government-sponsored health insurance program that provides care based on financial need.

MEDICALLY FRAGILE

A number of subgroups make up medically fragile infants and children, including infants weighing less than 1,500 grams (3 pounds, 4 ounces) at birth; infants, children, and teens who become medically fragile because of an illness after birth (e.g., lupus or renal disease); infants, children, and teens who sustain serious injuries or child abuse; infants born with multiple defects involving malformations in a number of organ systems (e.g., Down's syndrome); and infants born addicted to alcohol or drugs because of the mother's substance abuse during pregnancy.

MENTAL RETARDATION

Significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior. It becomes apparent during the developmental period, thus adversely affecting a child's educational performance, and is a lifelong condition.

MONGOLIAN SPOTS

A birthmark that can appear anywhere on a child's body, most frequently on the lower back. These dark spots usually fade by age 5. They may be mistaken for bruises and are found primarily on children of color.

MOTION FOR REVIEW

A legal action filed by any party in a court proceeding requesting the court to hear evidence on the current status of the child.

MUNCHAUSEN SYNDROME BY PROXY (MSP)

A form of child abuse in which the parent/caretaker relates fictitious illnesses in his/her child by either inducing or fabricating the signs or symptoms. As a result, the child is subjected to extensive medical tests and hospitalizations. The technical definition of MSP includes: (1) an illness in a child that is faked and/or produced by a parent or caretaker; (2) a parent or parent figure who presents the child for medical care persistently, often resulting in multiple medical procedures; (3) denial of the knowledge by the perpetrator as to the etiology of the illness; and (4) acute symptoms, which abate when the child is separated from the parent/caretaker.

N

NEGLECTED JUVENILE

Defined by state statutes. Usually arises from a parent's passive indifference to a child's well-being, such as failing to feed a child or leaving a child alone for an extended time.

NEUROSIS

Marked emotional disorder without loss of contact with reality and with a history of relatively normal developments.

NONRESPONDENT PARENT

Parent not involved in the court case.

NOTICE

Receipt of the petition by the parents, the CASA/GAL volunteer, or other parties to the case, which gives them fair warning of specific allegations sufficiently in advance of court proceedings so that reasonable opportunity to prepare will be afforded.

O

OBJECTION

A lawyer's protest about the legal propriety of a question.

OPPOSITIONAL BEHAVIOR

A tendency to be defiant and noncompliant, possibly as a reaction to chronic learning difficulties.

ORDER

In legal practice, an order is a written directive of a court judge.

OVERRULE

A judge's rejection of an attorney's objection to a question to a witness (i.e., a judge's decision that the question is legally proper). By overruling the objection, the trial judge allows the question to be answered or the evidence to be considered.

P

PARENS PATRIA

A Latin term meaning “the power of the sovereign.” Refers to the state’s power to act for or on behalf of incompetents, such as minors or some developmentally disabled persons.

PARTY

A person making or responding to a claim in a court or other adversarial proceeding. A person who sues or defends a lawsuit or any person joined in a lawsuit, such as a pension plan administrator, is called a party. A party has the right to conduct discovery and receive notice of all proceedings connected with the lawsuit.

PATERNALISM

A system under which an authority undertakes to supply needs or regulate conduct of those under its control in matters affecting them as individuals as well as in their relations to authority and each other.

PERCEPTION

The process by which sensory stimulation is converted into organized experiences. What appears to you; what you believe to be true.

PERMANENCY PLANNING HEARING

A hearing that takes place one year after the child is removed from the home or 30 days after a judge rules that reasonable efforts have been made. This hearing is designed to look at the child’s placement options, amount of time in care, the concurrent plan, and further resources for the child.

PETITION

A civil pleading filed to initiate a matter in juvenile court, setting forth specifically the alleged grounds for the court to take jurisdiction of the case and asking the court to do so and intervene.

PETITIONER

The individual who initiates court action, whether by filing a petition or a motion for review alleging the matter for adjudication. For child abuse and neglect cases, the petitioner is generally the child protection caseworker acting on behalf of the agency.

PHYSICAL ABUSE

Intentional harming of a child, use of excessive force, and/or reckless endangerment.

PLAINTIFF

The person who initiates a lawsuit by filing a complaint. When the document that initiates a lawsuit is called a petition rather than a complaint, the initiating person is usually referred to as the petitioner rather than the plaintiff.

PREJUDICE

Preconceived judgment or opinion.

PRIMA FACIE

A Latin term approximately meaning “on the first appearance” or “on the face of it.” In law, this term is used in the context of a *prima facie* case, in which the presentation of evidence at a trial has been sufficiently strong to prove the allegations unless contradicted and overcome by other evidence.

PRIVILEGED COMMUNICATIONS

Confidential communication that is protected by statutes and need not or cannot be disclosed in court over the objections of the holder of the privilege. Lawyers are almost always able to refuse to disclose what a client has told them in confidence. Priests, ministers, rabbis, doctors, psychotherapists, and spouses are all covered by privilege statutes, but their testimony can be compelled in many cases involving child abuse or neglect.

PROBABLE CAUSE

A legal standard, used in a number of contexts, that indicates reasonable grounds for suspicion of or belief in the existence of certain facts or allegations.

PROBATION

In criminal or delinquent cases, a disposition that allows the convicted criminal defendant or the juvenile found to be delinquent to remain at liberty, under a suspended sentence of imprisonment, generally under the supervision of a probation officer, and usually under certain conditions. Violation of a condition is grounds for revocation of the probation.

PRO BONO

A Latin term referring to attorney services rendered at no charge.

PRO SE (OR PRO PER)

Latin terms meaning to act as one's own legal counsel.

PROTECTIVE SERVICES DIVISION

The division of the local child protection agency responsible for investigating reports of child abuse and neglect, preserving the family life of the parties involved where possible by enhancing parental capacity for good child care, and petitioning the court if necessary services are refused in serious situations.

PSYCHOTIC PERSON

A person who suffers a major mental disorder impairing his/her ability to think, respond emotionally, remember, communicate, interpret reality, or behave appropriately, so as to interfere with his/her capacity to meet the ordinary demands of life. The term "psychotic" is neither very precise nor definite. It is estimated that significantly fewer than 10% of all abusive or neglectful parents are psychotic.

R

REASONABLE EFFORTS

The diligent use of preventive or reunification services by a child protection agency when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time. If a court of competent jurisdiction determines that the juvenile is not to be returned home, then "reasonable efforts" means the diligent and timely use of permanency planning

services by the child protection agency to develop and implement a permanent plan for the juvenile. It is the judge who determines whether the agency has made reasonable efforts to prevent the child's placement and reunify the family. The two factors central to this determination are the quality of the efforts and the nature of the services offered. "Quality of effort" refers to a reasonable level of diligence and good judgment and the absence of negligence. "Nature of services" refers to the availability of services to meet the needs of the child and/or family.

RECAANT

To withdraw a statement.

RE CROSS-EXAMINATION

After redirect examination or rebuttal is completed, the opposing counsel are permitted to ask the witness questions covering the issues addressed in the redirect or rebuttal examination.

REDIRECT EXAMINATION OR REBUTTAL

Upon conclusion of all cross-examination, the attorneys are permitted to ask the witness more questions. These questions are called "redirect" or "rebuttal" questions, and they are designed to undo any damage to the attorneys' case resulting from the cross-examination.

REPORTING LAWS

State laws that require specified persons to notify public authorities of cases of suspected child abuse and neglect. All 50 states now have reporting statutes, but they differ widely in what must be reported, persons who must report, the manner of reporting (written, oral, or both), and the degree of immunity conferred upon reporters.

REUNIFICATION SERVICES

Remedial efforts by the child protection agency that are designed to help parents take the necessary steps to be able to provide a safe home for their child(ren).

REVIEW HEARING

A hearing conducted by a judge, within certain time frames, to review the status of a child's case.

SCHIZOPHRENIA

A mental disorder that afflicts persons of all ages, races, and economic levels. The term refers to a group of disorders that have common characteristics but likely are caused by various factors—brain chemistry, hormonal imbalance, inherited predisposition, violent childhood, highly stressful adult life. Basic to schizophrenia is a distorted thought pattern. Persons sometimes hear nonexistent voices or music or see nonexistent images. Their perceptions do not fit their reality, and they may react inappropriately or without any visible emotion at all. With the help of new medications aided by psychotherapy, schizophrenia can be controlled so that persons with the disorder can maintain employment and live with their families.

SEXUAL ABUSE

Engaging a child in any activity for an adult's own sexual gratification.

SHAKEN BABY SYNDROME

Injury to an infant or baby that results from the child having been shaken, creating a whiplash effect, usually as a misguided form of discipline. It is often accompanied by blunt force trauma to the head. The most common symptom is bleeding inside the head. Repeated instances of shaking can result in mental and developmental disabilities and, in extreme cases, death.

SICKLE CELL ANEMIA

A genetic defect of hemoglobin, the oxygen-carrying protein in red blood cells. Sickle cell anemia changes the shape of red blood cells, making them “plug up” small blood vessels and choke off the blood supply to the tissues. During periods of frequent sickle-cell crisis, children and teens can be incapacitated for weeks or months. The children experience severe pain, require frequent hospitalizations, and often require emergency care to obtain oxygen and fluids. Sickle cell anemia occurs in about 160 of each 100,000 live African American births.

SKELETAL SURVEY

A series of X-rays that studies all bones of the body. Such a survey should be done in all cases of suspected abuse to locate any old, as well as new, fractures.

SOCIAL HISTORY

Also called “social study,” “social report,” or “pre-hearing report.” Information compiled by a caseworker about a child and/or family's functioning. This material may be presented for the juvenile court's consideration at the disposition hearing. Social histories often contain material that is hearsay.

STAND

The place where the witness sits while he/she is testifying. It is usually a chair beside the judge's bench. When called to testify, the witness “takes the stand.”

STANDARD OF PROOF

In different judicial proceedings there are varying requirements of proof. Three of the most commonly used standards are:

Beyond a Reasonable Doubt: Evidence that is entirely convincing or satisfying to a moral certainty. This is the strictest standard of all and applies to all criminal proceedings. It is the standard applied to termination of parental rights that come under the provisions of the Indian Child Welfare Act (PL 95-608).

Clear, Cogent, and Convincing Evidence: Less evidence than is required to prove a case beyond a reasonable doubt, but still an amount that would make one confident of the truth of the allegations. This is the standard applied to TPR cases (unless ICWA applies).

Preponderance of Evidence: Merely presenting a greater weight of credible evidence than that presented by the opposing party. This is the lowest standard of proof; it is used in most civil court proceedings.

STATUTE

A law passed by the legislature.

STIPULATION

An agreement (oral or written, depending on the jurisdiction and nature of the proceeding) between the attorneys in a case that allows a certain fact to be established in evidence without further proof (e.g., the lawyers in a child abuse case may stipulate that the X-rays show a fracture so that the radiologist will not have to be subpoenaed to testify).

SUBDURAL HEMATOMA

A common symptom of abused children, consisting of a collection of blood beneath the outermost membrane covering the brain and spinal cord. The hematoma may be caused by a blow to the head or from shaking a baby or small child. *See also **Shaken Baby Syndrome**.*

SUBPOENA

A subpoena is an order of the court for a witness to appear at a particular time and place to testify and/or produce documents in his/her control. A subpoena is used to obtain testimony from a witness at depositions (where testimony under oath is given outside of court) and at trial. Failure to appear as ordered by the subpoena can be punished as contempt of court if it appears the absence was intentional or without cause.

SUBPOENA DUCES TECUM

A subpoena requiring the person subpoenaed to bring records to court.

SUBSTANTIATION

A decision by the child protection agency to confirm a report of abuse or neglect after an investigation. It is then the agency's responsibility to determine if a petition should be filed or if the situation can be corrected with voluntary acceptance of protective services.

SUDDEN INFANT DEATH SYNDROME (SIDS)

A sudden, unexpected death of any infant in whom a thorough postmortem examination fails to show a clear cause of death. Recent studies suggest that some infant deaths attributed to SIDS were related to other previously unknown causes.

SUMMONS

A legal document issued by a court clerk or other court officer, usually handed in person by the sheriff to the person summoned, notifying the named person that a lawsuit or legal cause has been filed against or involves him/her, and notifying that person of any dates set for hearings and deadlines for responding to the complaint or petition.

SUPERVISED VISITATION

Visits between a parent and child that are overseen by another person who is present at all times. Usually, supervised visitation is recommended when there is reason to believe a parent may seek information about the foster placement, influence a child to recant allegations, or try to leave the area with the child. Supervision may be provided by the caseworker, a relative who is caring for the child, or by another responsible adult.

SUPPLEMENTAL SECURITY INCOME (SSI)

Monthly financial benefits provided to dependent, handicapped children whose families meet financial criteria and to disabled adults who are unable to be competitively employed and who meet income and asset criteria.

SUSTAIN

A judge's agreement with an attorney's objection to a question posed to a witness (i.e., the judge's decision that the question is not legally proper). By sustaining the objection, the judge does not allow the question to be answered or the evidence to be considered.

SWEAR

To declare under oath that one will tell the truth (sometimes "the truth, the whole truth, and nothing but the truth"). Failure to tell the truth and to do so knowingly is the crime of perjury. A witness is given the option of swearing to tell the truth or affirming to tell the truth.

SYSTEM, THE

In this context, either the child protection system or the child protection system and the court.

T

TANF (Temporary Aid for Needy Families)

Welfare payments to families in need, which are subject to five-year limits. The term also refers to several million dollars of federal funding to implement reforms within the social services system for such things as sexual assault prevention, domestic violence grants, sex offender registry, and several other direct service projects.

TEMPORARY CUSTODY

Taking physical custody from the parent and providing personal care and supervision by the state until a court order for emergency custody can be obtained. State law defines how many hours a child may be held in temporary custody without an emergency custody order entered by a judge.

TERMINATION OF PARENTAL RIGHTS (TPR) HEARING

A proceeding, usually at the end of a child abuse or neglect case, during which the child protection agency seeks to sever all ties between a parent and a child. TPR proceedings require clear, cogent, and convincing evidence as the standard of proof.

TITLE IV-D

A 1975 amendment to the Social Security Act. Provides greater assistance to the states in establishing paternity and enforcing child support orders. Title IV-D also created the Child Support Enforcement program to oversee child support enforcement operations at the state level.

TITLE IV-E

An amendment to the Social Security Act that created a federally funded program for out-of-home placement of children.

TOURETTE SYNDROME

A hereditary, neurobehavioral disorder with symptoms including tics, obsessive-compulsive behaviors, dyslexia, confrontational behavior, sleep problems, phobias, depression and mood swings, panic attacks, short temper, inappropriate sexual behaviors, and alcohol, drug, food, and other addictions. Tourette syndrome

is sometimes misdiagnosed as attention-deficit/hyperactivity disorder, or the child is believed to be a victim of child physical or sexual abuse because the behavioral abnormalities are similar.

TRAUMA

An internal or external injury or wound caused by an outside force. Usually trauma means injury by violence, but it may also apply to the wound caused by any surgical procedure. Trauma may be caused accidentally or, as in a case of physical abuse, nonaccidentally. "Trauma" is also a term applied to the psychological discomfort or symptoms resulting from an emotional shock or painful experience.

TRIBE

There are 563 federally recognized tribal governments in the United States. The United States recognizes the right of these tribes to self-government and supports their tribal sovereignty and self-determination. These tribes possess the right to form their own government, to enforce laws (both civil and criminal), to tax, to establish membership, to license and regulate activities, to zone, and to exclude persons from tribal territories.

U

UNDISCIPLINED JUVENILE

A minor who is regularly truant from school, is disobedient beyond parental control, is regularly found in places unlawful for a juvenile, or has run away from home. The child has not violated any adult criminal law.

UNSUBSTANTIATED

The finding, after investigation by a child protection agency or law enforcement agency, that no abuse or neglect is occurring.

UNSUPERVISED VISITATION

Visitation between a parent and child that does not require the family to stay in one place and be watched by a creditable observer, usually a family member or caseworker.

V**VENEREAL DISEASE**

Any disease transmitted by sexual contact. Presence of a venereal disease in a child may indicate that the mother was infected with the disease during pregnancy, or it may be evidence of sexual abuse.

VENUE

“Juvenile court venue” refers to the county or counties within which a lawsuit may be initiated based on such factors as where the parents reside, where the child resides, or where the child is found.

VOIR DIRE

A Latin term meaning “to speak the truth.” The procedure during which lawyers question prospective jurors to determine their biases, if any. Also the procedure in which lawyers examine expert witnesses regarding their qualifications, before the experts are permitted to give opinion testimony.

VOLUNTARY PLACEMENT

The act of a parent to relinquish custody of his/her child to a child protection agency.

W**WAIVER**

The understanding and voluntary relinquishment of a known right, such as the right to counsel, the right to remain silent during police questioning, or the right to a separate hearing.

WITNESS

A person who testifies under oath in a legal proceeding.

