# EVALUATION OF THE PHILADELPHIA DEFENDER CHILD ADVOCAY UNIT

FINAL REPORT

VOLUME I: CONTEXT EVALUATION

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REPORT ON THE EVALUATION OF THE PHILADELPHIA DEFENDER

CHILD ADVOCACY UNIT

TABLE OF CONTENTS

# VOLUME I: CONTEXT EVALUATION

## Preface

"Context" is the environmental web that gives a thing its meaning. In its year-long evaluation of the Philadelphia Defender Child Advocacy Unit (CAU) in 1979-80 under contract to LEAA, the University City Science evaluation team has examined the agency not only as an insular entity, but also as part of a larger world of ideas, laws, and organizations. This filigree of thought and activity provides a broad structure for interpreting and evaluating the work of the agency itself, and validates or counterbalances any findings.

The evaluation team identified three components in the context of the Child Advocacy Unit: the legal and ideological supports for child advocacy work; the historical development of the CAU itself; and the CAU's relations with its local peers. These components comprise the three parts of this report.

Part I describes two major issues in child advocacy: what should be the role of a child advocate, and what rights and needs of children should be pursued. This report advances the assertion that children do have the right to representation; and that while the individuals who represent them assume great responsibility, there is still considerable confusion about their appropriate functions and activities. In addition, the literature suggests that child advocates face a difficult task in deciding what to advocate for. There is no single, widely accepted codification of children's legal rights, although there are both legislative and ideological attempts towards that end. And there are heavy attacks upon traditional child welfare interventions, leaving the child advocate with few clear guideposts.

Part II traces the history of the Philadelphia Defender Child Advocacy Unit from the beginnings of an advocacy movement in Philadelphia in the early 1970's. The CAU began representing clients in 1976, and has increased its staff and caseload each succeeding year. This report suggests that ill-feelings engendered around the agency's inception may affect its public image into the present.

Part III reports on a study of the relationships between the CAU and other Philadelphia agencies and individuals with whom it interacts. Respondents from a sample of these agencies rated the effectiveness of the CAU and shared their perceptions in lengthy structured interviews. The study suggests that the CAU generally enjoys a good reputation, but has not avoided appearances of collusion, has not dealt effectively with its large caseload, and had adopted a style of advocacy less aggressive than may be desireable to the community. Finally, respondents envisioned some elements of an ideal advocacy agency, and their thoughts make up the final section of the context report.

This report contains a bibliography after Part I, and appendices containing a list of all respondents and all instruments used in the context evaluation. The Report on the Evaluation of the Philadelphia Defender Child Advocacy Unit contains two more volumes, the Process Evaluation (Volume II) and the Impact Evaluation (Volume III).

# PART I: ISSUES IN CHILD ADVOCACY

## The Role of the Child Advocate

An attorney or lay person seeking to serve as advocate for a child in civil proceedings faces a confusing array of prescriptions, proscriptions, and role definitions. States differ in their statutory mandates for counsel and representation, and statutes have not been fully interpreted or tested. Model statutes as well as federal court decisions seem to be leading inexorably toward the conclusion that all children who are subjects or parties to legal proceedings have the right to legal counsel (Redeker, 1978). Yet both the experienced and prospective children's attorneys sense that their role is somehow separate and distinct from other forms of legal practice. "The demands... are often vague yet the responsibility seems great" (Mlyniec, 1977:3).

### Children's Right to Representation

The Supreme Court's 1967 decision In re Gault enunciated the constitutional right of children involved in juvenile court proceedings to some of the due process rights enjoyed by adults in criminal proceedings, including the right to counsel, the right to notice of charges, and the right to cross-examine witnesses. As a result of Gault, the alleged beneficence of the juvenile court cannot be substituted for the safeguard of Fourteenth Admendment rights (Makaitis, 1978). In re Winship further extended children's rights to procedural due process by overturning the requirement for a preponderance of evidence in favor of the stricter standard of proof beyond a reasonable doubt to establish delinquency.

Both the Gault and Winship decisions were strictly limited to the adjudicatory stage of delinquency proceedings (Faber, 1971). However, these cases and others served to inspire and consolidate recognition of the rights of children in areas not specifically addressed and resolved within their

decisions, especially those civil processes -- neglect, abuse, and custody -- which directly affect the lives and freedom of juveniles. Still, the Supreme Court and other courts have chosen not to rule on the liberty and due process interests of children in an all-encompassing fashion (Teitelbaum & Ellis, 1978), thus leaving considerable room for differences and confusion in practice among jurisdictions as well as the fundamental ideological clash between parents' children's and state's interests.

Rights to Representation in Pennsylvania. Redeker (1978) has advanced the argument that, in the Commonwealth of Pennsylvania, abused (and by the same token seriously neglected and other dependent) children do have the right to be represented by independent counsel based on Federal Court decisions, various Pennsylvania Court decisions in related areas, and the intent of legislation. However, he points out that issues surrounding this right have thus far not been "squarely met to date by any court in Pennsylvania" (p. 522). Stapleton v. Dauphin County Child Care Services upheld the right of a foster child who was the subject of custody proceedings (and not a party to court action) to be represented by counsel. Judge Spaeth further ruled that the child's right could not be waived by foster parents or natural parents, despite the wording of the Pennsylvania Juvenile Act (discussed below), because it must be the duty of the court during and not before the proceedings to determine if the child's interests differ from his/her guardians. Stapleton was cited in two later custody cases, In re Clouse and In re LaRue, both of which stated that children in custody cases should be represented by their own counsel because their interests might be distinct from any other party's. Redeker suggests that these cases inform the issue of legal representation for abused and neglected children for two reasons.

First, as Judge Spaeth wrote in the Stapelton decision, a child who is subject to, as opposed to a party to, the proceeding "is just as much a party to this case, which will determine his future, as he would be if ... the proceeding were a delinquency proceeding" (Stapleton at 573); thus Gault applies directly. Second, abused and neglected children's interests can be seen as distinctly different from (even though partially overlapping) the interests of their parents or guardians, the social agency, and the State singly because of the nature of the cases, and thus it is crucial that the child's interests are independently represented in court.

Pennsylvania Statutes. Advocates for children in Pennsylvania take their mandate from two pieces of controlling legislation. The Pennsylvania Juvenile Act, the statute upon which Stapleton was based and which relates to the care, adjudication, and placement of delinquent and deprived children, requires legal representation for children brought to the attention of the court under the Act.

> Except as otherwise provided under this act a party is entitled to representation by legal counsel at all stages of any proceeding under this act and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party appears without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Counsel must be provided for a child unless his parent, guardian, or custodian is present in the court and affirmatively waives it. However, the parent, guardian, or custodian may not waive counsel for a child when their interest may be in conflict with the interest or interests of the child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them.
>
> (Section 20)

In addition, the Commonwealth of Pennsylvania passed the Child Protective Services Law to conform with the requirements of the Federal Child Abuse Prevention and Treatment Act. The Child Protective Services Law, which established the child protective service and the mandatory reporting of child

abuse and severe neglect, requires that a guardian ad litem be appointed to represent each abused child in legal process brought under the act, as required to ensure eligibility for federal funds:

> The court, when a proceeding has been initiated arising out of child abuse, shall appoint a guardian at litem for the child. The guardian ad litem shall be an attorney-at-law. The guardian at litem shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian pursuant to this act. The guardian at litem shall be charged with the representation of the child's best interests at every stage of the proceeding and shall make further investigation necessary to ascertain the facts, interview witnesses, exercise and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the child.
>
> (Section 23).

Philadelphia Family Court judges and staff report that it was the passage of the Child Protective Services Law in 1975 that convinced them of the need to provide for the representation of dependent children in judicial proceedings. Thus far, there is no clear statutory basis for mandatory representation in private custody proceedings, although some judges do appoint advocates to children in custody disputes resulting from divorce.

Because the Child Protective Services Law makes special note of its complementarity to the Juvenile Act, stating in Section 25 that "nothing in this act shall in any way repeal the provisions of the Act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act..," children who come before the Philadelphia Family Court under the provisions of both acts (nearly fifty percent of all non-delinquent children before the court) may properly deserve both guardian ad litem and legal counsel. While most abused and neglected children in Philadelphia do have attorneys at some stage in any proceedings affecting them, few if any have appointed to them two separate

attorneys, despite the considerable published material suggesting that the roles of legal counsel and guardian ad litem may be mutually exclusive. The Pennsylvania situation serves as a microcosm of the larger debate surrounding the proper role of attorney/guardian for juveniles.

The Role of Legal Counsel

The American Bar Association has adopted a series of standards for the legal representation of juveniles (IJA-ABA Joint Commission on Juvenile Justice Standards, 1976; adopted by ABA 1979). Although these standards do not carry the weight of law, clearly they are intended to provide an ethical basis for practice by members of the bar, "a guide to honorable and competent professional conduct" (1.2,b), and a companion piece to the ABA's Code of Professional responsibility.

These standards contain general statements about punctuality and the unprofessionality of misrepresenting facts, delaying court proceedings, and the seeking of personal publicity. Attorneys practicing before juvenile court are charged with the responsibility to actively seek improvement in the juvenile justice system (1.7), and to prepare themselves through formal training and association with experienced attorneys for the special circumstances of practice in juvenile and family courts (2.1,a,i.). Attorneys, especially those practicing as part of public defender systems, should limit caseloads to avoid accepting any clients that cannot be provided full and effective counseling and representation (2.2,b,iv), which requires adequate support staff as well as attorneys (2.1,c.).

The standards are most specific in defining the lawyer-client relationship (Part III).

> 3.1(a): However engaged, the lawyer's principal duty is the representation of the client's legitimate interests.....

3.1(b)i: In general, determination of the client's interests in the proceedings, and hence the plea to be entered, is ultimately the responsibility of the client after full consultation with the attorney.

3.1(b)ii,a: Counsel for the respondent in a delinquency or in need of supervision proceeding should ordinarily be bound by the client's definition of his or her best interests with respect to admission or denial of the facts or conditions alleged. It is appropriate and desirable for counsel to advise the client concerning the probable success and consequences of adopting any posture with respect to those proceedings.

3.1(b)ii,b: Where counsel is appointed to represent a juvenile subject to child protective proceedings, and the juvenile is capable of considered judgement on his or her own behalf, determination of the client's interest in the proceeding should ultimately remain the client's responsibility, after full consultation with counsel.

3.1(b)ii,c: In delinquency and in need of supervision proceedings...and in child protective proceedings, the respondent may be incapable of considered judgement in his or her own behalf.

3.1(b)ii,c,1: Where a guardian ad litem has been appointed, primary responsibility for determination of the posture of the case rests with the guardian and the juvenile.

3.1(b)ii,c,2: Where a guardian ad litem has not been appointed, the attorney should ask that one, other than himself or herself, should be appointed.

3.1(b)ii,c,3: Where a guardian ad litem has not been appointed and, for some reason, it appears that independent advice to the juvenile will not otherwise be available, counsel should inquire thoroughly into all circumstances that a careful and competent person in the juvenile's position should consider in determining the juvenile's interests with respect to the proceeding. After consultation with the juvenile, the parents (where their interests do not appear in conflict with the juvenile's) and any other family members or interested persons, the attorney may remain neutral concerning the proceeding, limiting participation to presentation and examination of material evidence or, if necessary, the attorney may adopt the position requiring the least intrusive intervention justified by the juvenile's circumstances.

In addition, attorneys for children are cautioned that adversity of interests exists where a lawyer is required by his or her employer to "accom-

modate their representation of that client to factors unrelated to the client's legitimate interests (3.2,a,iii). Lawyers have the responsibility to keep their clients fully informed of the developments in the case (3.5), to confer promptly with their clients (4.2a), and to advise the client candidly of the probable outcome of the case (5.1,a). The client is considered responsible to determine the plea to be entered, and to decide whether to testify in his or her own behalf (5.2,a).

The Task Force on Juvenile Justice and Delinquency Prevention has adopted very similar standards for legal counsel operating in family court (National Advisory Committee on Criminal Justice Standards and Goals, 1976). Like the IJA-ABA standards, the Task Force has emphasized that a juvenile client, like an adult, holds "the ultimate responsibility for making any decision that determines the client's interest within the bounds of the law" (16.2). Commentary to this standard continues:

> "The allocation of responsibility, where counsel advises and client decides, serves to insure that the lawful rights of the client have substantial meaning. Where counsel usurps the decisionmaking power of the client, the basic rights of the client are denied."

Like the IJA-ABA Standards, the Task Force defines different roles for counsel and guardian ad litem where the client can be considered incompetent to determine rationally his or her own interests (16.3). Commentary to this standard advises that, first, children should not be required greater foresight than adults; that is, a

> "test for capacity should not require that the client be able to make a wise decision concerning the course that will be best in the long run; wisdom of this kind is not expected even of adult defendants...
>
> It is sufficient that the client understands the charges and the consequences that can flow from an adjudication..."

Most children are capable of meeting this test, and only rarely will an attorney have to abdicate the role of advocate (Harbai, 1979). Where clients are incapable of appreciating the consequences, the attorney should ask that a guardian ad litem be appointed on the client's behalf, and the attorney should then "advocate the lawful objectives of the client as determined by the guardian on behalf of the client"... "Neither a person with adverse interests nor such person's attorney could properly serve this role" (Commentary to 16:3).

Unlike the Report of the Task Force on Juvenile Justice and Delinquency, the IJA-ABA standards do allow for a situation where a child's attorney perceives the need for a guardian ad litem to be appointed for a child but that appointment will not be made (see 3.1,b,ii,c,3 included above). In that case, the attorney is advised either to remain neutral during the proceedings, or to recommend the least restrictive alternative for the child. This does not seem to imply that the attorney, even for an incompetent client, is to independently select from among the entire gamut of outcomes the one he or she perceives to be in the best interest of the child, and then zealously advocate that position.

The Role of the Guardian Ad Litem

The Task Force on Juvenile Justice and Delinquency Prevention recommends, as discussed above, that an attorney for a child should petition the court to appoint a guardian ad litem when the child has been determined incompetent by reason of youth or disability (Report, 1976; Standard 16:3). Standard 16.4 presents guildelines for the guardian ad litem:

> "A lawyer appointed to serve as guardian ad litem for a person subject to family court proceedings should inquire thoroughly into all circumstances that a careful and competent person in the ward's position would consider in determining his or her own interests in the proceeding. When the client is the respondent, the guardian should ordinarily require proof of the facts necessary to sustain jurisdiction

> and if jurisdiction is sustained, take the position requiring the least intrusive intervention justified by the child's circumstances. In representing a child in Endangered Child, custody, or adoption proceedings, the guardian may limit his or her activity to presentation and examination of material evidence or may adopt the position requiring the least intrusive intervention justified by the child's circumstances."

Commentary to Standard 16.4 exhorts the guardian ad litem to "investigate thoroughly the facts and legal propositions involved in the matter," and "be prepared to present the program that, in his or her own judgment, is best suited to the respondents' circumstances."

In the Commonwealth of Pennsylvania, the Child Protective Services Law (1975) requires that a guardian ad litem shall be appointed whenever court proceedings have arisen from child abuse (see Section 23, included above). The Law further specifies that the guardian ad litem shall be an attorney, and has the right to use all reports and records relevant to the case. The guardian has the following responsibilities: to represent the best interests of the child; to investigate the facts of the case; to interview, examine, and cross-examine witnesses, and to make recommendations to the court.

Makaitis (1978) has reviewed the history and theory of the guardian ad litem, pointing out that their appointment to cases where children were other than formal parties in legal proceedings is a practice only two decades old. She traces their widespread use to the rights enunciated in Gault and to recognition of the shortcomings of the juvenile court system. Children's right to have a guardian ad litem appointed relies heavily on statutory provisions, yet in some but not all litigation, Barth v. Barth for example, state courts have authorized their appointment outside of statutory mandate. Makaitis has outlined the general function of the guardian ad litem.

First,

> "he is the advocate and legal representative, who must protect the best interests of the children... Secondly, the guardian ad litem must protect the general welfare of his client... Finally, the guardian ad litem serves as an officer of the court. He must counsel and confer with the trial judge concerning all matters relating to custody and other issues..."
>
> (Makaitis, 1978:252-253)

Quoting from Levin (1974) she again emphasizes that the guardian ad litem assists the court in establishing the best interest test for ensuring the child's welfare. Fraser (1976) has emphasized that the crux of the guardian's role is the investigation. "Until a thorough investigation has been completed, there is simply not enough data available to develop a prognosis, to develop a treatment plan, and to present possible options to the court" (p. 34).

Makaitis does not draw a distinction between the representation of children's interests and the advocacy of their best interests. Holz (1978), in describing the use of guardian ad litem in Wisconsin, emphasizes similarly that "a guardian ad litem in custody action under Wisconsin law has all the duties, powers, and responsibilities of counsel who represents a party to litigation" (p.741). He adds, however, that, in Wisconsin, the guardian does not "counsel and consult with the trial judge (p.741), although the Wisconsin Guidelines for Guardians Ad Litem reprinted in Holz admonish guardians to serve as "a friend of the court" (p.744). Fraser (1976) contends that in child abuse cases, the guardian assumes not an adversarial but an advocate's role.

The Role of the Social Service Advocate

Social work borrowed the concept of advocacy from the legal profession without fully modifying and adapting its original courtroom meaning (Levy, 1974). The cry for social workers to serve as advocates for their clients

seems to have grown directly out of the civil rights movement and the anti-poverty programs of the 1960's (Perlmutter, 1972). Although child advocacy has been advanced as a major counterbalance to the gross ineffectiveness of institutions, there is still considerable haziness about what functions are appropriate for advocates (Davidson & Rapp, 1976).

Various schemata have been advanced to describe advocacy activities. The National Association of Social Workers Ad Hoc Committee on Advocacy found that advocates could most fruitfully engage in working with or for clients to generate needed resources in the community, and teaching clients to serve as advocates for themselves (1969). Davidson and Rapp (1976) have cited a wide range of advocacy definitions, from Brager's (1968) interpretation of advocacy as dictating active political strategies, to Brophy, Chan, and Nagel's (1974) understanding of advocacy as a counseling function.

Davidson and Rapp (1976) themselves put forward two interrelated strategies for advocacy which may be combined in various ways as appropriate. The first is a set of activities arranged along a continuum:

> 1. At the positive end, the advocate can attempt to gain the good favor of the person or agency in control of the needed resource.
>
> 2. At midpoint, the advocate could select a neutral strategy, often referred to as a consultation, in which information would be provided to the critical individual or agency about the area of unmet needs.
>
> 3. At the negative end of the continuum, the advocate could decide to take direct aversive action against the critical individual or agency. If the needed resource is not provided, threats to take such action are also a major component of negative strategies (p. 229).

The second model moves from approaches to bring about change on the individual level, through the administrative level, and finally to policy level. Richan (1973) describes a similar but two-level model, case advocacy and class advocacy.

Levy (1974) suggests that advocates may serve as pleaders of the cause of individuals or groups, using the instrumentalities of "protest, disruption, representation, demonstration and argumentation;" or they may work as "protagonist of legislative or policy change" via "promotion of legislation and the support of legislators and public officials" (p. 41). Levy points out that in relationships with individual clients, the advocate ought to remain neutral so as to encourage the client to remain free and independent; whereas in dealing with administrative units, community boards and public bodies, the advocate ought to be "unequivocably biased" (p. 42) toward the needs of his or her clients. Advocacy goals may be arranged in three levels: justice, or procedural fairness; distributive justice or equity; and corrective justice, or compensation for deprivation (pp. 43-48).

Middleman and Goldberg (1974) have described three different social work roles, which should come in a definite order. First, the social worker should be a broker, to link up his or her clients with existing resources. This is the oldest social work role, and "presupposes a complementarity of interest between the client in need and the agency offering a service "(p. 65). Second, the social worker should function as a mediator, to help conflicting parties "to rediscover their need for each other" and "reach out to the other for their mutual self-fulfillment" (p. 60). Finally, as a last resort, one may assume the posture of advocate, presuming that the target of advocacy is an adversary, and slowly escalating the problem to higher levels. Middleman and Goldberg point out the "advocacy paradox" (p. 55), that by assuming an adversarial stance, one may create unnecessary adversaries. Yet they cite Richan and Rosenberg (1971), who suggest successful methods for helping and allowing the adversary to back down and save face.

Problems

Many problems have emerged from the various activities of social service advocates, guardians ad litem, and attorneys.

Counsel and Guardian Ad Litem Are Distinct Roles. Several researchers have concluded, based on representation standards as well as case law, that the roles of counsel and guardian ad litem are separate and distinct. Redeker (1978) cites the decision in Lessard v. Schmidt, which found that the appointment of a guardian ad litem, who would evaluate for himself or herself the best interest of a client-ward and then operate independently of the will of the client, would not fulfill the constitutional right to counsel in court proceedings. Official comment to the Model Child Abuse and Reporting Law (1975) echoed this sentiment. Mlyniec (1977) found that, even though the traditional roles of attorneys and guardians ad litem are different, the duties have merged and blurred to the point that the stated interests of the child, supposedly advocated by an attorney, may be ignored in favor of what a guardian/attorney perceives to be the best interest of the child. Harhai (1979) finds it unethical and a "disruption in communication" for an attorney to advocate what she or he believes to be in the best interest of a child client when the judge and other participants will naturally perceive that the attorney's actions and statements are made within the rubric of a traditional lawyer-client relationship. "Furthermore, the representative who attempts to combine the functions under the guise of serving the client as attorney, does a disservice both to the client and to the court by usurping the proper role of the judiciary leading to injustice and frustration of the judicial process" (Harhai, 1979:86). Similarly, if an attorney is bound to act on behalf of his or her client, that is, to act as the client would act, then even adults may not be adequately represented by attorneys who frequently act in behalf of clients without involving them in important decisions (Bersoff, 1976).

Problems with Law Guardians. Many problems have emerged from the various activities of social service advocates, guardians ad litem, and attorneys. Both Redeker (1977) and Harhai (1979) have described the guardian ad litem as an expansion of the court's parens patriae power. Fraser (1976) defined the guardian as, in part, an officer of the court. Redeker and Harhai imply that, in assisting the court to establish the best interest test, guardians alone are not adequately fulfilling the role of attorney for the client. Devine (1975) reports that courts in the District of Columbia did attempt to reduce the role of guardians "from that of an advocate to that of an investigator for the court" (p.318). Philadelphia Family Court judges interviewed in regard to the Defender Child Advocacy Unit indicated that one of the most important functions the child advocates fulfilled was providing the Court with information about the case they were assigned. If, as Bersoff (1976) and others have suggested, "Gault tolled the death knell of the parens patriae doctrine," (p. 32) then the guardian's role is called into serious question.

Makaitis (1978) suggests further difficulties with the guardian ad litem system. First, although theoretically law guardians ought to have access to the same opportunities to prepare for cases as attorneys (e.g. interviewing parents and clients, examining social workers' reports, requesting psychiatric examinations for children and parents, summoning witnesses), access to these sources of information varies widely across jurisdictions. Second, most attorneys do not possess great knowledge of child development and psychology with which to decide what is in the best interest of a child. Finally, Makaitis' lengthy discussion of the lack of role clarity suggests that this confusion creates difficulty in itself.

Best Interest Test.

There is a question of whether the process of determining the best interest of another person requires prescience beyond the powers of mortal humankind.

> The determination of the best interest of another person requires an ability that few (indeed, if any) persons possess. It requires a thorough understanding of the physical and psychological inter-relationship of the child and his parents, as well as an ability to make determinations absent specific guidelines regarding which social forms, conventions, and behavior produce the most well-adjusted and socially productive persons. It assumes that a person possesses an ability to foresee the development of the relationship of the child, the custodial parent and the non-custodial parent, and it also assumes that there is a best way to perform this task. Even psychiatrists, the professionals our society believes most capable of making these predictions, are reluctant to do so. It is understandable that a conscientious judge, trained in the adversary process and generally unfamiliar with social science theories, has difficulty making this decision.
>
> (Mlyniec, 1977:12)

Mlyniec contends that a child advocate is in no better position, saddled with the same uncertain standard and the same inability to predict the future. Even though Mlyniec refers specifically to private custody disputes, the same unclear standard haunts dependency and involuntary termination hearings as well (Chemerinsky, 1979-80; Katz et al., 1977). Goldstein, Freud, and Solnit, in their now classic volume, Beyond the Best Interests of the Child, set out as one of their premises that:

> Child placement decisions must take into account the law's incapacity to supervise interpersonal relationships and the limits of knowledge to make long-term predictions (p. 49).

Katz and his colleagues (1977) especially criticize the best interest test as a standard for intervention into families at the outset, because the potential for violation of parental rights due to vagueness is so high. Chemerinsky (1979-80) advocates strict statutory definitions of when

involuntary termination of parental rights is permissible, as well as clear elaboration by judges of their decision, so that judges cannot simply invoke the best interests phrase "without elaborating on the basis for the conclusion or examining alternatives" (p. 109). An attorney serving as guardian ad litem for a child will be equally as hamstrung as the judge in forecasting the future, and may or may not have sound and well developed reasons for his or her perceptions of what is in a child's best interest.

Schwartz (1980) has pointed out that, in Pennsylvania, case law does contain three guiding principles to aid in defining the best interest of the child. First, the state should not interfere in families unless it can bring forth clear and convincing evidence that the child is dependent under the laws of the Commonwealth. Second, "it is in the best interest of the child, even after a finding of dependency, that the child not be separated from the parent absent a finding of 'clear necessity'" (p. 2). Finally, once a dependent child is separated from its parents the parents' claim to custody must be weighed against the length of separation, and the child's wishes should be "just one of the factors considered by the court" (p. 2). Schwartz carefully outlines the case law from which these principles have emerged.

Procedural Correctness v. Flexibility. Finally, as suggested above, controversy surrounds the relative merits of procedural correctness versus flexibility in the court process. In general, attorneys are seen as promoters of the adversarial process and stricter procedure; guardians ad litem are viewed as protectors of children's interests but not necessarily their constitutional rights.

The adversary process may be entirely inappropriate for family proceedings (Katz et al., 1977). Even those deeply concerned with children's rights argue that "a non-adversarial approach should be preferred as long as

the child's interests are kept clearly in mind" (Bross, 1978:32), and the child is represented by an attorney. Devine (1975) describes Wisconsin's attempt to mollify the rancor generated in adversarial custody proceedings to protect the children and families involved. Katz and his colleagues (1977) advance the argument that "those favoring parents' rights urge the most rigid procedures; those favoring the child, the most flexibility" (p. 182).

Faber (1971) complains that attorneys representing both children and parents are greatly hampered in family court by inappropriate informality.

> Even the attorney experienced in juvenile court work is often relegated to the role of passive participant without the tools of procedure and evidence to protect his client's case. The use of precise pleadings, depositions, and interrogatories available to the attorney in other courts are not found in juvenile court
>
> (p. 657)

Faber argues that it is the "delicacy of the family relationship "(p. 657) that must be protected by procedural due process. Many writers join Faber in criticizing the vagueness of definitions and standards used in family court as major infringements upon people's rights (Chemerinsky, 1979-80; Katz et al., 1977; Goldstein, et al., 1973 and 1979). Teitelbaum and Ellis (1978) have gone to great lengths to establish the constitutional liberty interest of children; others have emphasized that representation itself is a constitutional right and not simply a therapeutic device to promote the child's well-being (Redeker, 1978; Harhai, 1979; Mlyniec, 1977, Bersoff, 1976). Many believe that simple trust in the benevolence of the Court has been buried by Gault, which prescribes procedural safeguards to protect children's rights (Bersoff, 1976; Makaitis, 1978). Clearly, the IJA-ABA Standards Relating to Private Counsel and the Report of the Task Force on Juvenile Justice and Delinquency Prevention encourage attorneys to promote and practice procedural correctness in children's affairs as in adults'.

Agency Factors. Other important factors influence the advocacy function. The advocate's situation within an agency is an important factor in delimiting what advocacy roles may manifest themselves. Davidson and Rapp (1976) have outlined a number of restrictions on advocacy, grouped under the category of "incompatible loyalties," and including: threats of being fired, or sanctioned, responses to existing norms, relationships, procedures, and channels; and responsibilities to career. "In most segments of society, conformity and adherence to established procedure are rewarded" (p. 227), providing strong impetus for not making waves.

Advocacy may be seen as an agency function or a professional function, and may be an exclusive or an incidental activity (Levy, 1974). Clearly, "the social worker's role as an advocate within his profession is shaped by the nature of his assigned responsibility" (p. 41), and the overall division of labor within the agency.

Perlmutter (1972) has described social work as an interstitial activity:

> it serves both the client in need and society at large...for the social worker's function is defined by, and his salary is paid by an agency...which receives its sanction from and is accountable to the community, although his services are offered to a client in need. (p. 3)

Perlmutter cites Parsons (1964), who sees law as another interstitial profession, one which serves clients but works within a structure of laws which are official enactments of the state. Thus in both professions there is an inherent conflict between service and reform, and advocacy in social work grew out of workers rejecting their over-identification with "agency function or middle-class society's dictates" in the 1960's (Perlmutter, 1972).

> The advocate must have a degree of freedom that will not interfere with his commitment to youths or make him vulnerable to co-optation or negative sanctions.
> (Davidson & Rapp, 1976:227)

A second problem concerns the relationship between attorneys and social workers functioning together in agencies. Scherrer (1976) suggests that lawyers view social workers as an inferior and unprofessional group. Social workers tend to view the courtroom as gladiatorial combat, and the law as "technical, rigid, logical, and precise - but not interested in the solution of interpersonal problems" (Schottland, 1968:724). Scherrer cites Schultz (1968), who finds that social workers fear the adversary process, and thus perpetuate abuse in the juvenile system.

Some studies suggest that attorneys can be the most effective advocates in some areas (Platt & Friedman, 1968). Levy (1974) suggests that clarification of appropriate advocacy functions of attorneys and social workers is needed before the two professions can work together most fruitfully.

## The Context of Childrens Rights

Child advocacy as practiced by the Defender Child Advocacy Unit finds its ideological support both in statutes and case law which delineate children's right to independent representation and other fair procedures, and in the belief that children, as individuals, have rights to a certain quality of life and relationship. Here the roles of attorney and guardian ad litem come together in agreement, for both are charged with the task of protecting the overall rights and improving the lives of their clients. Rovner-Pieczenik, Rapoport, and Lane (1977) writing for the National Legal Aid and Defender Association, find that zealous representation requires an attorney to address not only the present legal problems of the client, but also the range of social and personal factors that make up the client's life situation. Zealousness, especially in the representation of children, signifies commitment to the role of counselor as well as advocate. According to Fraser (1976), guardians ad litem, too, have a "primary obligation to identify a child's needs - whether physical, psychological, or developmental - and to insure that those needs are addressed" (p. 40). Unfortunately, it is not a simple task to delineate these presumed rights and needs.

## The Rights and Needs of Children

Various attempts have been made to articulate the rights and needs of children (see Gross & Gross, 1977, among others). The literature concerning the right to representation has been reviewed above. White (1977), while citing Foster and Freed's (1972) statement that every child has the right "to receive parental love and affection, discipline and guidance, and to grow to maturity in a home environment which enables him to develop into a mature and responsible adult" (p. 1165), and referring to Goldstein, Freud and Solnit (1973), suggests that the only undisputed right a child has is the "right to be free from domestic treatment which threatens his physical and emotional

well-being" (p. 1165). Other rights, he maintains, have not been statutorily defined. Hafen (1977) emphasizes also that the "Supreme Court has not clearly established that the constitutional rights of minors (particularly choice rights) are all coextensive with those of adults" (p. 1388).

Judge Hansen of the Wisconsin Supreme Court put forward a Bill of Rights for Children involved in custody decisions, based on Wisconsin Appellate Court decisions (included in Levin, 1974, and Devine, 1975). The ten-point Bill includes the rights to be treated not as chattel but as a person, to grow up in a healthy home environment, to periodic review of custody arrangements, and to the appointment of a guardian ad litem. Goldstein, Freud and Solnit (1973) have based their recommendations for custody decisions on three presumptions, that children have a need for "continuity of relationship" (p. 31), that children have the right to full party status in placement decisions and representation by counsel (p. 65), and most crucially, that the child's interests should be paramount (p. 105).

In their second joint volume (1979), the same authors have suggested that children deserve to be free from excessive intrusion by the state into their family life. Lowry (1979) has elaborated this concept by describing the rights that many thousands of children are systematically denied: the right not to be taken from their families unnecessarily, with no attempt made to help them and their families in the home; the right to equal access to available services without reference to race or religion under their constitutional right to equal protection of the law; the right to freedom from "arbitrary and irrational decision-making while in foster care" (p. 359), in clear violation of their right to treatment and to due process; and finally, "when the natural family is no longer available,...the right to a new, substitute family that would enable them to leave state custody..."(p. 359). Lowry

admits that it is still questionable whether children have independent legal rights in conflicts between natural and surrogate parents, but advances the argument that it is the state's improper intervention and inadequate treatment that precipitate the problem in the first place.

Teitelbaum and Ellis (1978) have examined the recent history of children's right to liberty - freedom from physical confinement, especially by the state - and have concluded that the Supreme Court has established the principle that "children have the same liberty interests as adults, but that occasions for legitimate state restriction of the exercise of these liberties are more frequent" (p. 158). Still, it is incumbent upon the state to show why it is necessary to restrict liberty, and the state has often used as rationales for intervention children's vulnerability, their incompetence, and the need to maintain family strength and integrity. The last decade has seen a great deal of litigatory activity aimed at defining the rights of retarded and mentally ill persons, including children, in situations that restrict their liberty and right to services. A series of cases, including Wyatt V. Stickney (Partlow Case) Lessard v. Schmidt, New York State Association of Retarded Citizens v Casey (Willowbrook Case), and Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania have established that retarded and mentally ill persons have the right to appropriate habitation and treatment in the least restrictive surroundings, the right to due process before commitment, and the right to education. Clearly, children have the right to education. The recent overturning of two cases concerning the procedural entitlements of children in mental health commitments reverses the general expansion of children's rights in other areas. Vargyas (1979) has interpreted the Supreme Court's ruling in Parham v. J.L. and Secretary of Public Welfare of Pennsylvania v. Institutionalized Juveniles - that children

do not have the right to formal pre-commitment hearings because parents and the state may be presumed to act in the best interests of children - as a strong blow to the cause of children's rights. "In a very real sense, the child is left without an independent advocate to speak on his or her behalf," (p. 358) and Vargyas fears that this expansion of parental and state power over minors may soon spread to other areas.

Not all family law practitioners and social scientists approve of the unlimited expansion of children's rights. Goodman (1977) suggests that adults should renovate their own institutions rather than trying to give children and adolescents more rights and freedoms. Hafen (1979) finds that the trend toward granting children full adult rights under the law fundamentally offends the concept of parental authority over minors. While children ought to be protected under the law, their immaturity and incompetence should limit their right to make important decisions without their parents' consent. Further, "it would be arguable under a full-blown children's liberation theory that the law should begin with the premise that the state has the same relationship with children as adults (Hafen, 1977; 1386), which would, in Hafen's opinion, seriously reduce parental control of child-rearing and family life and dangerously increase the state's power over families. Thus, both advocates and critics of children's rights justify their position as a fear of expanding and dangerous state intervention.

Children's rights, then, do not stand as an isolated and pure concept. The rights of children are always balanced against the competing interests of the parents and of the state. Herein lies a major difficulty in the task of the child advocate, that whatever direction advocacy takes, whatever the content of recommendations formulated, the interests of and repercussions for all parties must be taken into account.

The Interests of the State

White (1977) has put forward the general notion that the state has an interest "in a healthy and stable emerging adult generation," (p. 1163), and will therefore attempt to regulate society so as to produce such generations. The state, recognizing the family's effectiveness as a socializing force, desires to maintain family autonomy not only

> to provide the conditions needed for the physical and emotional development of individual children, but also (to) make possible a religious and cultural diversity that might disappear if the state extensively regulated or controlled child-rearing.
>
> (Areen, 1975:893).

Nonetheless, the state also has an interest in exercising its police power, whether for deterrence or punishment, and in maintaining adminstrative efficiency (Areen, 1975).

Much of the state's intervention into the lives of children is justified under the concept of parens patriae, a Seventeenth Century development from the British Crown's common law obligation to protect infants, idiots, and lunatics. Areen (1975) charts the expansion of parens patriae toward virtually limitless intervention, especially into the lives of poor families, in the best interest of children. In the United States, what Areen calls a "merger of benevolence and hostility toward wayward youth" (p. 909), led to the ultimate application of parens patriae power in the new juvenile statutes at the turn of this century, allowing the state to become an "arbiter of acceptable parental behavior" (p. 917) as well as a guardian of children.

The doctrine of parens patriae has been subject to a great deal of criticism in the last two decades for failure to observe the procedural rights of both parents and children under the cloak of benevolence. The Gault decision said of the parens patriae rationale that "its meaning is murky and its historic credentials are of dubious relevance" (at 16), and of the juvenile court that "history has again demonstrated that unbridled discretion, however

benevolently motivated, is frequently a poor substitute for principle and procedure "(at 17-18). Makaitis (1978) adds:

> Clearly, then, it appears that the efforts of a kindly judge do not adequately safeguard the rights of the child in all cases. As a result of the Gault decision, the doctrine of parens patriae can no longer be invoked to deny children the protection of the Fourteenth Admendent now mandated by the United States Supreme Court (p. 240).

Other cases such as McKeiver v. Pennsylvania and the vacating of Parham indicate that the courts are still attempting to articulate a balance between procedural protections for children and parens patriae.

The Interests of Parents

The interests of parents are a third important factor in most dependency and custody proceedings. "The Supreme Court has consistently recognized that parents have fundamental liberty and privacy interests in maintaining the integrity of the family unit" (Chemerinsky, 1979-80; 95). Chemerinsky finds the first guarantee of the liberty interest of the family in Meyer v. Nebraska in 1923, giving parents the right to raise their children as they see fit because the constitution guarantees "the right of the individual to marry, establish a home, and bring up children" (Meyer at 399). Other cases establishing parents' rights to exercise custody, care, and control over their children, to discipline children, and to control children's religious and moral education have been based both on the expression of First Amendment rights and the rights to privacy (Chemerinsky, 1979-80; Faber, 1971; White, 1977).

But like all constitutional protections, the parents' right to raise their children is not absolute (Chemerinsky, 1979-80; White, 1977). The state has an interest in protecting children from harm, and parents must fulfill their duty to care for and protect their children. But because parents have a basic right to raise their children, wherever parents may be

denied that right they deserve full procedural due process protection (Besharov, 1979; Chemerinsky, 1979-80). Besharov (1979), while arguing that parent's constitutional right to counsel extends even to civil child protective proceedings, still finds that many states continue to consider this issue on a case-by-case basis. Even when states recognize the right, (as they almost always do in efforts to terminate parental rights), zealous advocacy may not be provided for financial and emotional reasons, e.g., that few lawyers want to defend an abusing parent, suffering from "an ethical and humanitarian double bind caused by the fear that a successful defense may only succeed in placing the child in greater danger" (Besharov, 1979: 28).

The state's intervention in families to protect children thought to be endangered affects most directly parents' right to privacy and their reputation as good citizens. Even the required investigation of allegations of abuse or neglect which are contained in most states' child protective statutes constitute an intrusion on the private lives of parents, which they may resent and in response to which they may choose to initiate lawsuits. Caulfield (1978) states that "no supreme court case has directly examined the issue of family privacy against a child's welfare..."(p. 18). However, "implicit in most recent child protective legislation is the legislative finding that the balance between children's rights and parent's rights must be weighed in favor of protecting children "(Besharov, 1978:461). Besharov continues that every legal safeguard, including strict confidentiality and the right to inspect records, should be provided to parents involved in investigation and all other phases of civil process.

Practice and Policy in the Commonwealth of Pennsylvania

Pennsylvania has been included among those states upholding "a strong presumption that a child's best interest is served by custody in the natural

parent" (Smith, 1978-79: 548); thus it has been rare for parents to lose permanent custody of their children even after the state has held temporary custody for many years. Pennsylvania, both in legislation and statute, has upheld the principle of preservation of family unity (Juvenile Act, Child Protective Services Law, In re Jackson, In re Custody of Hernandez, In the Interest of Whittle, In the Interest of La Rue. Schwartz (1980) has found that case law indicates that, even after a child is found to be dependent under the Pennsylvania statute, it is in the child's interest not to be separated from parents without a finding of clear necessity; and after separation, reunification of the family should be the first choice (In the Interest of Clouse, In the Interest of LaRue).

In Pennsylvania, as in other states, guidelines for removal of children from their homes have been only vaguely defined. While the Child Protective Services Law requires the Protective Service agency to investigate alleged abuse and to "provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development" (Section 16,a), those protective services may be provided in the home, preferably, or in protective custody outside the home, with no clear standards for decision-making laid down. Many children are taken into custody and removed to care outside the home; in 1975, 15,000 Pennsylvania children were living in foster care, 40% of whom had been out of their own homes for five or more years (Diethorn, 1977).

New Foster Family Care Service regulations promulgated by the Pennsylvania Department of Welfare, effective July 1, 1980, do make clear the service goals to be sought in child welfare activities after separation has been affected. First, the state is to provide services to families to minimize the period of separation from family (2-31-8).

> The second goal is to prevent lengthy placements in temporary foster care by arranging for a permanent alternative home for a child as soon as possible after a decision is made that family unification is not attainable within a reasonable period of time (2-31-9).

The third goal is to ensure the child's rights and growth while in foster care (2-31-10). Similarly, agencies which approve foster families and place children may "pursue the termination of parental rights, when appropriate under state law" (3-31-12). Perlberger (1980) has outlined the statutes and case law relevant to involuntary termination; under the Pennsylvania Adoption Statute, parental rights may be terminated when parents have for six months shown a purpose to give up their children or have failed to carry out their duties as parents, and/or when parents cannot or refuse to provide for their child's physical and mental health. Perlberger contends that case law upholds the statute's purpose not to require proof of parent's intention to abandon their children before termination can proceed. Similarly, parents have an affirmative duty to maintain communication with their children during forced or voluntary separations.

As Perlberger (1980) has found, Pennsylvania courts have joined in the growing national movement to remove children from the "limbo of foster care" (p. 5). The new Department of Public Welfare regulations discussed above also clearly show the influence of this emerging aspect of the children's rights movement, grounded in the belief that the state has failed in its intention to provide protection to dependent children superior to the care of the very parents the state found wanting.

Permanency Planning

Many writers have argued that foster care functions not as a temporary protection for endangered children but as an endless state of limbo. The vast social work literature will not be covered here. In the legal literature, Guttenberger (1980) combined studies of foster care conducted across the country and estimated that the average length of stay in foster

care is five years, with most children having little or no contact with their parents and experiencing one or more moves while in foster care. Goldstein, Freud, and Solnit (1973), Burt (1979), Guttenberg (1979), Wald (1976) and Lowry (1977 and 1979) all cite studies which indicate that foster placement, rather than providing benevolent protection for children and safeguarding family integrity, may actually cause harm to children and hasten the destruction of families. "The placement of a child in a foster home signals, in a substantial number of cases, the end of the parent-child relationship "(Lowry, 1977: 1035).

In the face of this unsettling reality, the call is for permanency planning. Finding permanent solutions for children depends on three major thrusts: remove as few children as possible from their families by providing in-home services; closely monitor, frequently review, and respect the needs of those children in temporary care; and finally, find permanent placements for children relatively soon, even if the right of natural parents must give way to the rights of children to live in functioning new families (Lowry, 1977: 1039 as one example).

Goldstein, Freud, and Solnit's (1973) seminal work advanced the powerful dichotomy of psychological parents v. biological parents, and the necessity for swift decisions by the child welfare system because of the young child's foreshortened sense of time. These concepts have exerted a profound impact on many recent statutes and model acts, including the Pennsylvania Foster Care Service regulations (1980) cited above, the Model Act to Free Children for Permanent Placement (Katz, 1978), the IJA-ABA Joint Commission on Juvenile Justice Standards Abuse and Neglect volume (1977), the Report on the Task Forces on Juvenile Justice and Delinquency Prevention (1976), and Wald (1976). Advocates for children, then, must function within the context of this current pressure for permanency planning as it affects statutes, case law, and child welfare practice.

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## PART II: HISTORY OF THE CHILD ADVOCACY UNIT

The Child Advocacy Unit of the Philadelphia Defender's Association was organized amidst controversies over the nature of child advocacy, the role of the child advocate, and the competing interests of children, parents, and the state. The CAU evolved in a complex system of existing and emerging law enforcement, judicial, social service, and advocacy agencies who compete for funds and perceive and interpret past events differently. This discussion of the history of the CAU will include references to the evolution of other agencies that have been involved with the CAU, and it will also address the ways in which the flux of philosophical conflict influenced the organization and functioning of the CAU.

### Background, 1971 - 1975

In 1971 Judge Hazel Brown was hearing all cases involving deprived children who were not classified as delinquent. Neither parents nor children were afforded counsel; social workers from the Department of Public Welfare came into court to present petitions on behalf of dependent children. Between 1971 and 1975 Family Court officers, DPW staff, and private attorneys became sensitized to the legal rights of parents in these cases. Pressure was applied to bring city solicitors into court to present the DPW's case; later newly appointed Dependency Court judges recognized parents' needs for legal council.

The need for legal representation for children provoked three separate initiatives. The earliest began in 1971, when two members of the Young Lawyers Section of the Philadelphia Bar Association, Majorie Marinoff and James Redeker, began to represent children at the request of Judges Lois Forer and Lisa Richette. Quickly overwhelmed with work, they organized the Child Advocacy Project in the Young Lawyers Section of the Philadelphia Bar Association to train private lawyers to serve as volunteer advocates for

children. The Project operated for four years on a completely voluntary basis. Lawyers of the Child Advocacy Project, along with other private attorneys, accelerated an already growing movement toward upgrading the procedural correctness of Family Court proceedings and toward developing a system in which the child as well as the parents and the state had advocates. The volunteer lawyers needed additional support in the areas of information gathering, training, and developing case plans. So, by 1975 the Project had evolved into the Support Center for Child Advocates (SCCA), which submitted an application through the Philadelphia Regional Planning Council to LEAA to obtain funding for a small social service staff.

With the enactment of the Pennsylvania Child Protective Services Law in 1975 mandating legal counsel for children, another group of four young lawyers organized to represent non-delinquent children in deprived circumstances. In August, 1975, they incorporated the Juvenile Law Center (JLC), and applied for funding by LEAA through the local Regional Planning Council. Copies of the proposal, which was sharply critical of the Family Court, were sent to the judges.

Concurrently, Mrs. Alice O'Shea, a lawyer in the juvenile division of the Defenders' Association, was working with deprived children. The Defenders' Association at that time had no responsibility for representing non-delinquent child victims, but Mrs. O'Shea obtained permission from several Family Court judges to work in their courts. She received appointments under the 1972 Juvenile Act that authorized judges to appoint counsel for deprived children. Mrs. O'Shea was interested, as was the Defender, in a better organized system for representing children.

The judges of the Family Court realized that with the passage of the Child Protective Services Act they would have to provide advocates for abused

and neglected children. However, the judges believed that the Juvenile Law Center was radical and that appointment of the JLC as advocate for all deprived children would create strife and delays in court. To avoid the possibility that the JLC might have a monopoly in the field of child advocacy, the staff of the Family Court wrote an alternative proposal. The proposal submitted by the Family Court specified that a Child Advocacy Unit would be organized in the Philadelphia Defenders' Association to represent children in cases assigned by the Court.

The Regional Planning Council required that any application for funding would have to have letters of support from the judges of Family Court. Such support was not forthcoming for the JLC proposal, and the Regional Planning Council tabled the proposal. The members of the Regional Planning Council finally did not accept the JLC proposal because it called for sweeping changes in the court system, and because the JLC staff was too inexperienced to assure that the proposed changes would be appropriate. The JLC rewrote its application four times and was ultimately turned down. Neither did the Family Court Child Advocacy Unit judges support the SCCA proposal, which was also refused. The Family Court application was approved and funded in early 1976. The JLC received a much smaller grant from LEAA discretionary funds later in the year.

It is still believed by some members of the legal community, city government, and others in the child advocacy field that the Defender Child Advocacy Unit was formed and funded not by virtue of its merit but as a patronage plum. In addition, some CAU staff and other service providers proclaim the uniqueness and originality of CAU's mission, while ignoring the pioneering efforts of others in the city. The legacy of the acrimonious debate in the Regional Planning Council, the struggle for federal and local

support, and the assigning of credit for ideas all continue to affect the relationships between the CAU and other agencies and the public perception of closeness between CAU and Family Court.

## Evolution of the Child Advocacy Unit, 1976 - 1980

The Child Advocacy Unit was organized with a staff of two attorneys, one social worker, one investigator, and one secretary. Funding was to be provided 100% by LEAA during the first year, 75% during the second year, 50% during the third year, and 25% during the fourth year. Local funds were to provide the balance of the funding during the first four years and full funding in fiscal year 1981.

Intended originally to provide counsel solely for victims of child abuse, the CAU was appointed in growing numbers and types of cases. The caseload was far in excess of that anticipated - the Annual Report for 1976-1977 showed 2000 representations when 700 to 750 had been expected. The CAU represented children in cases involving child abuse, neglect, or deprivation; parental inability or unwillingness to provide education, medical care, or mental health care; mental health and mental retardation commitments; custody; and status offenses when assigned to Dependent Court.

The CAU described its advocacy during its first year as being neither for nor against the parent and the Department of Public Welfare, but for the child. It did not press for prosecution of parents, and it sought to collaborate with the DPW and the service providers. The groundwork was laid for the non-adversarial, negotiation style of advocacy that has characterized the CAU throughout its history. In its 1976-1977 Annual Report, the CAU stated its commitment to "healing the ailing family unit" and solving problems with the concurrence of parents.

By the beginning of its second year the staff of the CAU had been increased threefold, and student interns were active in both the legal and soal service divisions. The caseload continued to increase, with appointments to represent children in cases of domestic relations, adoptions, adult criminal cases where children were victims, and children serving as bone marrow transplant donors. In addition, the CAU accepted a contract to represent children in mental health commitment proceedings. In its second year, the CAU espoused a concept of multi-disciplinary advocacy in which law, social service, psychology, and investigation were integrated on an equal footing. The new philosophy replaced the earlier concept in which the social, psychological, and investigative services played a supporting role to the prime actors, the lawyers who represented the children in court.

The CAU reported a caseload for 1977-1978 of 3002, a 41% increase over the previous year. By the end of the year, the staff, had grown to five attorneys, three social workers, three social service student interns, two investigators, and two secretaries.

During its third year (1978-1979) the CAU continued to emphasize the social service component, increasing the number of social workers had been increased to five with the support of three social service student interns. The number of attorneys, investigators and secretaries remained the same. The language in the Third Annual Report described the functioning, objectives, and achievements of the CAU in more psychological and less legalistic terms. In its third year CAU reported a burgeoning caseload of 4095.

There were two types of review and assessment conducted or initiated during 1978-1979. First, the city evaluated the services provided by the CAU along with those of the two other child advocacy agencies, reviewing the legislative mandates requiring their services and the costs of their

services. As a result of its evaluation, the city agreed to finance the Child Advocacy Unit as an element of the Defenders' Association under a purchase of services contract, but declined to fund the other two agencies even though they were found to perform worthwhile services. Second, at the request of the Public Defender, a special committee of the Youth Services Coordinating Commission, composed of city officials and the chairman of the Bar Association, reviewed the organizational status of the CAU. The committee considered three alternatives: maintaining the CAU as part of the Defenders Association; setting up the CAU as a private, non-profit corporation, and moving the CAU intact to another agency. Despite the Public Defender's recommendations, the Commission decided that the CAU should remain as part of the Defenders' Association to benefit from its managerial and accounting support, to insure more stable funding, and to realize economies by avoiding duplication. However, members of the committee would have liked to find a more suitable city or private umbrella agency to house the CAU.

This evaluation by the University City Science Center under contract to the National Institute for Juvenile Justice and Deliquency Prevention began in the CAU's fourth year (1979-1980). The trend toward increased emphasis on social service continued. A secretary was replaced by a social service worker while the number of attorneys on staff remained at five for the third consecutive year.

In May of 1980 the Public Defender informed the CAU that municipal funding out of the Defender budget would be terminated at the end of June. The City Council had reduced the budget for the Defenders' Association so drastically that it could no longer cover the CAU. The Defender appealed to the City Council for additional funds and authorization was given for the CAU to continue on a temporary basis. Final decisions about permanent funding have yet to be made.

## Part III: Interorganizational Relationships

### Introduction

The Philadelphia Defender Child Advocacy Unit operates within a system that includes courts, law enforcement agencies, social service providers, public administrators, schools, and other legal and advocacy organizations. By surveying a sample of these organizations, the University City Science Center evaluation team studied the relationship between the CAU and the other groups with which it interacts and by whose standards it is judged.

### Methodology and Data Gathering

#### Respondents

The evaluation team selected as respondents for this portion of the study a nonrandom but unbiased sample of individuals from all types of local agencies with which the CAU has contact. Certain agencies to be interviewed were specifically designated by the Science Center in the evaluation design, including the District Attorney's Office, the Youth Services Coordinating Office, the Police Department, the Family Court, the Department of Public Welfare, the Criminal Justice Coordinating Office, and other legal and child advocacy agencies. The evaluation team asked the CAU to develop a list of social service provider agencies with which it normally interacts and a list of judges who generally hear CAU cases. The evaluation staff then wrote to these judges asking them to become respondents, and to the directors of these service provider agencies asking them to designate as respondents their agency staff person most familiar with the CAU. Finally, the evaluation added a few additional respondents recommended by the CAU at the end of the interview period after CAU staff had an opportunity to review the respondent sample and preliminary interview results. The complete list of 82 respondents may be found in APPENDIX A.

Quantitative Assessment of CAU Effectiveness

To establish a basis for comparing the perspectives of organizations and individuals with which the CAU interacts, the evaluation team developed a preliminary rating scale for self-administration by all CAU staff members and all respondents from other agencies. The rating scale was composed of 14 items on which the respondents rated the CAU on a seven point Likert scale (Appendix B). Most respondents received their questionnaire in the mail prior to being interviewed.

Qualitative Assessment

The evaluation interviewed all respondents using the Structured Interview Schedule (Appendix C). The structured interview format assured comparability of reponses but was sufficiently open-ended to obtain detailed discussions of the effectiveness of the CAU and the relationships between the CAU and other agencies.

## Findings

Quantitative Assessment of CAU Effectiveness

Forty-three out of eighty-two respondents returned the preliminary rating scale. Respondents were asked to rate the Child Advocacy Unit on the fourteen functions below; mean ratings by each constituency as shown in Table 1.

1. Effectiveness in managing CAU's own operations.
2. Effectiveness in investigating the life situations of CAU clients.
3. Effectiveness in developing independent recommendations for CAU clients.
4. Effectiveness of legal representation.
5. Effectiveness in operating independently as the child's counsel in the courtroom.
6. Effectiveness in getting clients appropriate services.
7. Effectiveness in following-up on clients.
8. Effectiveness of interdisciplinary cooperation within the agency.
9. Effectiveness of communication and coordination with other agencies.
10. Effectiveness of multidisciplinary advocacy model.
11. Effectiveness in keeping clients' families together.

TABLE 1

MEAN RATINGS BY SPECIFIC CONSTITUENCIES OF THE EFFECTIVENESS OF PERFORMANCE OF SPECIFIC FUNCTIONS BY CAU [a]

| Functions | Constituencies | | | | |
|---|---|---|---|---|---|
| | Family Court Judges | DPW Officials/ Workers | Service Provider Agencies | Legal Professional Community | CAU |
| | (N = 8.) | (N = 2) | (N = 12) | (N = 5) | (N = 11) |
| Internal Management | 2.0 | 3.0 | 4.4 | 2.8 | 3.7 |
| Investigating Client Situations | 2.0 | 3.0 | 4.4 | 4.3 | 2.3 |
| Developing Recommendations | 2.3 | 3.0 | 4.6 | 5.0 | 2.6 |
| Legal Representation | 2.0 | 4.5 | 4.7 | 5.5 | 3.6 |
| Independence in Court | 1.9 | 3.5 | 4.7 | 5.5 | 3.6 |
| Getting Services for Clients | 2.0 | 1.5 | 4.0 | 4.8 | 2.9 |
| Follow-up on Clients | 2.7 | 4.0 | 4.7 | 4.4 | 3.1 |
| Internal Cooperation | 2.3 | 3.5 | 4.0 | 4.2 | 3.0 |
| Coordination with Other Agencies | 2.2 | 3.5 | 3.7 | 4.1 | 2.2 |
| Multidisciplinary Model | 2.2 | 3.0 | 4.2 | 4.0 | 2.9 |
| Keeping Families Together | 1.7 | 6.0 | 4.8 | 4.6 | 2.8 |
| Reducing/Preventing Delinquency | 3.0 | 6.0 | 5.1 | 6.2 | 3.5 |
| Improving Service Delivery | 2.4 | 5.0 | 3.8 | 2.9 | 3.0 |
| Contributions to the Law | 3.0 | 6.0 | 5.0 | 5.6 | 4.7 |
| TOTAL | 2.3 | 4.0 | 4.4 | 4.6 | 3.1 |

a 1 = Very Effective 7 = Very Ineffective 4 = Scale Midpoint

12. Effectiveness in preventing and reducing delinquency.

13. Effectiveness in improving social service delivery to youth.

14. Effectiveness in contributing to child advocacy law through legislation and litigation.

The Child Advocacy Unit itself, the Family Court judges, and the two respondents from the Department of Public Welfare rated the CAU as average or better than average in effectiveness across all functions. Service providers and the legal professional community rated the CAU as ineffective overall. Respondents in the categories of court administration and other juvenile justice and advocacy groups declined to rate the CAU.

The Family Court judges rated the CAU higher than any of the other constituencies on 13 of 14 functions, and there was less variation in judges' ratings across all functions than for any other constituency. Judges regarded the CAU as significantly more independent in court than did any other group including the CAU itself.

The CAU staff concurred with other constituencies that among all functions they were least effective in contributing to child advocacy law, preventing and reducing delinquency, and providing legal representation to their clients. Similarly, the CAU was regarded by its own staff and by other constituencies as most effective in investigating the life situations of clients and coordinating with other agencies.

Qualitative Assessment of the CAU

The evaluation team interviewed eighty-two respondents using the open-ended Structured Interview Schedule (Appendix C). Respondents had the opportunity to describe their perceptions of the CAU's history, operations, philosophy, expertise, and impact, as well as the CAU's relationships with the respondent and other specified groups.

Data gathered in these lengthy interviews revealed that Philadelphians hold diverse views of the appropriate role of child advocates, the most effective handling of troubled families and child victims, and the competence of the Child Advocacy Unit itself. Respondents most critical of the CAU were those who favor an aggressive

and independent style of case and class advocacy, who press for criminal justice involvement in some abuse cases, who find the current public child welfare system woefully inadequate, or who have strongly disagreed with the CAU about the handling of specific cases. Respondents most complimentary were those who prefer a highly conciliatory, mediation style of advocacy, who depend on the CAU for information about the court and child welfare system, or who have enjoyed close relationships with CAU social workers.

Despite the multiplicity of viewpoints, a majority of respondents voiced concern over three issues:

A. the CAU's close relationship with the Family Court and the Department of Public Welfare and its potential/actual compromising of CAU's independence and effectiveness as a change agent;

B. the CAU's excessive caseload and thus the quality of representation;

C. the appropriate roles and functions of a publicly funded child advocacy unit.

A. Independence. The question of the CAU's independence was the subject of most widespread concern among respondents. The relationship between the CAU and the two major bodies in its constellation, the Family Court and the Department of Public Welfare, will be described here.

1. Relationships between the CAU and The Family Court

The Family Court branch of The Philadelphia Court of Common Pleas is the primary component in CAU's daily universe. All CAU cases are assigned by Family Court, and CAU attorneys and social workers appear before Family Court judges for multiple cases each day court is in session. This crucial interaction will be discussed from the perspective of the judges, the CAU staff, and other respondents.

The Perspectives of the Family Court Judges

All judges praised the independence of the Child Advocacy Unit from the judiciary; some judges expressed anger that questions of independence were raised.

All judges described the CAU as one of the sources of information they used to arrive at their decisions. Individual judges described the information provided by CAU as truthful, accurate, helpful in defining issues, invaluable, unprejudiced, and neutral. They also emphasized that the CAU's report is only one element they consider, that they reserve the right to ignore or overrule it, and that they often question the agreements negotiated by the CAU. One judge noted that the investigation by the CAU obtains more information about the child's interests than the child would be able to reveal in court or in front of his parents. Other judges said that the CAU presents a thoughtful view of the child's best interests, that the CAU helps DPW develop a suitable recommendation for disposition, that the CAU makes the court more sensitive to the child's specific needs and problems and that the CAU follows up cases and holds service providers accountable for the execution of the disposition agreed to and/or ordered.

One judge suggested that the CAU, along with all child advocates, is ill-trained. The CAU was compared favorably with other more disruptive and challenging agencies because its attorneys assisted in the expeditious processing of the court's business. However, a few judges found the more aggressive representation of other attorneys more interesting and exciting than the CAU's style.

Considering the intensity of contact between the Family Court judges and the CAU staff (40 to 90 hearings each day), the judges and court officers reported remarkably little conflict. Most said there was very little conflict; however, CAU was critized for manipulating a case to obtain personal recognition, for being unprepared, and for being too idealistic and lenient toward children.

The Perspectives of CAU Staff Members

The CAU staff as a whole described itself as playing a determinative role both in case dispositions and the gradual improvement of court procedures. The social service staff described themselves as arranging the disposition with the interested agencies and individuals prior to the hearing. The legal staff saw their role as assuring that the CAU's plans for clients were adopted, a goal which rarely required much intervention because judges had great confidence in the quality of the CAU's investigations and arrangements. The CAU staff agreed with the judges that their investigations were impartial, that their work prior to the hearing speeded up the judicial process, and that their follow-up action assured execution of the dispositions ordered by the judges.

All CAU attorneys expressed specific concerns about the relationship between the CAU and the Family Court. One attorney stated that the tempo of processing cases - "the judge is yelling for the next case" - reduces the effectiveness of the CAU by not permitting adequate time for each hearing. An attorney and several social workers said that the task of representing clients is complicated by clients and parents viewing the CAU as an arm of the Court. A colleague amplified this concern by pointing out the closeness of the Child Advocate's relationship with judges on the Court. Two attorneys stated that judges were openly disapproving if the CAU posed questions or challenges. One attorney expressed frustration that the CAU was afraid to appeal any cases, but another said that appeals were unnecessary because the CAU always gets the disposition it wants or can request the court to reconsider a case.

The Perspectives of Other Respondents

Nearly all respondents gave the opinion that the CAU and the Court were too closely linked. A few service providers thought that the CAU was actually part of the Court. Individual comments revealed a general perception that CAU attorneys do not challenge the judges, do not work to change the Family Court system, and are not independent. Many respondents reported that the location of CAU in the courthouse

and the manner in which CAU staff interact with Court officials convinces clients and their parents that CAU is an arm of the Family Court.

DPW staff described the CAU as dependent on the Family Court, and one noted that if any lawyer is too aggressive, judges might retaliate through that attorney's next client. Another described the CAU as the creation of the Administrative Judge. Many members of the legal professional community noted that the CAU has done nothing to point out shortcomings, propose alternatives, or otherwise act to improve Family Court procedures. They described the CAU as a puppet of the Court. Members of other advocacy agencies noted that the CAU is such a regular fixture of the Court that the close relationship makes it difficult to push for changes in the Court procedures.

### 2. Relationships between the CAU and the Department of Public Welfare

Department of Public Welfare attorneys, caseworkers, and court representatives work intensively with the CAU on a day-to-day basis. Virtually all CAU clients have been assigned DPW caseworkers, who appear in court hearings and may have filed the petition that brought the case to court. DPW court representatives and attorneys attend all Dependency Court sessions and confer frequently with CAU attorneys. The relationship between the CAU and DPW is an important one because the Department represents the protective interests of the State while the CAU represents the interests of the child.

#### The Perspectives of the Department of Public Welfare Staff

DPW officials and caseworkers described their relationship with CAU as positive and creative. DPW officials said the CAU is helpful, loyal to DPW, and sometimes saves the agency from embarrassment. CAU provides information to DPW on legal aspects of cases and both agencies share information about their clients.

The impact of CAU-DPW interaction on cases was generally regarded as positive. The presence of the CAU "spurs everyone on to do more work so they won't look like an ass in court". The CAU was described as the conscience that calls attention to

the child, as a mediating influence, and as a provider of facts that might not otherwise come out. In its role as a follow-up agency for the Family Court, CAU is perceived with rueful respect. DPW officials said "CAU meddles in our business but keeps us on our toes" and "CAU is good on follow-up; too good - they bug us". In day-to-day collaboration, the CAU social service staff is perceived as not afraid to work for agreement, helpful in investigations, thorough and kindly, professional and competent, and "willing to go that extra step". Despite the high level of cooperation, services are not viewed as duplicative.

Conflicts have occasionally arisen in the relationship, for example, when DPW caseworkers did not understand the cooperative relationship between the CAU and DPW, or because the CAU looks only at the child's welfare while DPW is concerned with the whole family. DPW's difficulty in working with a particular CAU attorney was resolved by convincing the CAU to reassign the attorney to non-DPW cases. Two unresolved issues concerned resentment over the CAU using DPW reports as their own and the CAU's questioning a DPW worker's qualifications as a therapist. One DPW staff person said the CAU was "not a very tight ship", and that there was a lot of variation among staff members in procedures, values, and judgment.

The Perspectives of the CAU Staff

CAU staff members described both positive and negative aspects of their relationship with DPW. On the negative side, one attorney cautioned that the CAU was too close to DPW and that it was inimical to the concept of independent representation for the CAU "to be in the agency's back pocket". Other staff commented that the DPW staff is overworked and regards the CAU as an additional and unwelcome burden, that DPW staff appear to feel threatened by suggestions from the CAU, and that DPW caseworkers resist working with the CAU except immediately before court hearings.

More positively, CAU staff reported that the CAU has earned the respect of DPW by effective performance, by a policy of accommodation and collaboration, by avoiding radical suggestions that might threaten DPW personnel, and by successful efforts to

explain CAU's missions and policies. A related comment was that the CAU's location in the courthouse has helped confer power and respect. Social workers viewed their relationship as one of healthy and balanced give-and-take. Finally, CAU staff viewed themselves as an effective link between DPW and the whole range of social service agencies who could be mobilized to help DPW clients, and as a mediator between DPW and the often recalcitrant and embittered welfare families of child victims.

The Perspectives of Outside Agencies

Outside observers, too, expressed both positive and negative outlooks on CAU-DPW relationships. Many service providers, staffs of other advocacy agencies, and some members of the legal community described CAU as a puppet of DPW. These observers see the relationship between the two agencies as too close for the CAU to be an effective critic and catalyst for improvement of DPW procedures and to advance independently the cause of their clients. Because of the size of its caseload, the CAU cannot afford to offend DPW personnel on whom it is dependent for case information. DPW, on the other hand, needs CAU to protect it from embarrassment in court. A side affect of their mutual dependency is that other advocacy agencies find DPW officials reluctant to work with them for fear of offending the CAU staff.

In contrast, Family Court judges, some service providers, and some legal professionals view the CAU and DPW as friendly antagonists with complementary capabilities. These respondents praised the limited and healthy amount of disagreement between the agencies in court, and judged the overall relationship as helpful for most children involved in court.

B. The CAU's Caseload and the Quality of its Representation

The Child Advocacy Unit represents the vast majority of children and youth who appear in Dependency Court, and many other young people who come before other Family Court judges. In a populous urban area like Philadelphia, this total caseload exceeds one thousand every year. While the CAU has generally reported its caseload in a somewhat confusing, combined statistic of unique clients merged with court appearances,

independent counts by the evaluation team set the total of unique clients above 1400 for the 1978-79 fiscal year. Thus the total staff to client ratio was 1/98, and the attorney to client and social worker to client ratios were both 1/293.

The Perspectives of the CAU Staff

CAU staff all emphasized their very heavy caseload. Social service staff members said they had to be selective in the cases they investigated extensively, and that they had been forced to develop standard procedures and recommendations for certain types of common cases. Some legal staff members said that their case loads were too heavy to permit detailed study of each case in advance, but that they met with each client prior to his hearing. Other attorneys stressed that staff dedication still allowed individualized representation for each and every client.

CAU staff differed in their estimates of the agency's ability to control its caseload and the degree of discouragement staff felt about the client load. Social workers felt much more overwhelmed by the burden of the hundreds of cases each had to prepare and monitor, and criticized attorneys for failing to pull their weight. Some social workers and some attorneys believed that the CAU should begin to refuse some cases assigned by judges and thus force the Family Court to find alternate sources of representation. Others believed it was either a political or a humanitarian necessity for the CAU never to turn away a child victim in need of an advocate.

The Perspectives of Family Court Judges

Most judges observed that the CAU was understaffed for the caseload it is assigned. Only one judge suggested that the quality of CAU's work suffered from the heavy volume. Other judges commented that the Family Court and the Department of Public Welfare are accustomed to handling thousands of cases with limited personnel, so the CAU situation is not unique.

The Perspectives of Other Respondents

The frequency with which the caseload was cited as a problem by respondents outside of CAU confirms its importance. Inadequate attention to each case - mass-

production advocacy - is the salient criticism of the CAU. A related criticism was that the CAU must devote all of its resources to providing services and has no residual capability to contribute either to legislation reform or to case law, both of which are included in its stated objectives.

While there can be some debate as to the optimal amount of time to be devoted to each case, the CAU caseload is considered by many respondents to be far too large to allow for consistently effective advocacy by any standard. Some respondents from all constituencies suggested that CAU procedures and manpower allocations serve to exacerbate this caseload problem. CAU attorneys and social workers mistrust each other. To some outside observers, CAU attorneys seem distant from clients, do not take adequate responsibility for preparing cases, and depend entirely on overworked social workers for case planning and investigation. In addition, CAU's seeming passivity in court and failure to apply creative legal solutions or to participate in system reform tends to increase in the long run the total number of children whose lives require intervention and thus representation. Finally, several respondents criticized the CAU's huge caseload as totally unrealistic and unethical, while others praised the CAU's remarkable ability to handle each of their hundreds of cases with personal concern.

C. The Appropriate Roles and Functions of a Child Advocacy Unit

Aside from questions of competence, considerable criticism of the Child Advocacy Unit focussed on their philosophy and values. A more complete discussion of the CAU's perspective on their guiding philosophies appears in Vol. II, the Process Report.

The Perspectives of the CAU Staff

The CAU social service staff described its major functions as information-gathering, planning and sometimes testifying for clients, negotiating between parties, and brokering for services. Attorneys represent clients in court, advocating for the best interests of the children. Most staff prefer to settle on unified case plans with all relevant agencies before court hearings.

All staff believe in a non-confrontative style of advocacy both in and out of the courtroom, preferring to negotiate and to reduce conflict within families and between agencies. They prefer slow, steady system change to abrupt and alienating pressure. They generally reject as damaging to their clients criminal prosecution of the perpetrators of abuse, and they prefer to shield their clients from the trauma of testifying against other family members.

The Perspectives of Other Advocacy Agencies and the Legal Professional Community

Most staff members of other advocacy agencies and the sample of legal professionals disagreed with either the desirability of the CAU's philosophies or the CAU's actual application of them. The CAU's stance against criminal justice prosecution of perpetrators of abuse brought forth the strongest complaints; some respondents felt that failing to use all avenues to protect children in danger or allowing child victims rather than adult perpetrators to be removed from their homes constituted acquiescence to brutality towards children.

Many respondents fear that childrens rights were not effectively represented by the CAU's standard operating procedure of negotiating dispositions outside of court for endorsement by the Court. In their view, the CAU fails to offer any philosophical counterbalance to the Welfare Department's overly liberal foster placement habits and interminable temporary solutions. For this reason, these respondents saw open and even adversarial court hearings as the only hope for procedural correctness and protection of the legal rights of all parties, and for exposing the abuses of the child welfare system. Hastily arranged agreements outside of court were viewed as a circumvention of the judicial system. And finally, some respondents claimed that the CAU, while espousing negotiation, nevertheless applied behind-the-scenes pressure to agencies who disagreed with their client goals.

Concerning the development of law in the field of child advocacy, one of the, CAU's objectives, the CAU was compared unfavorably to the Juvenile Law Center and the

Support Center for Child Advocates. The CAU did not engage in litigation; it was totally reactive; and it was overwhelmed by demands and by justifying its own program. The SCCA and JLC were described as addressing the large political issues, and as engaged seriously in working for changes in law and community systems.

The Perspectives of Service Providers

Most service providers espoused philosophies and goals similar to those of the CAU. However, approximately thirty percent of the respondents cited some conflict with the CAU. Most of these respondents disagreed with the CAU's handling of specific cases, generally situations where the CAU opposed the involuntary termination of parental rights or acquiesced to the removal of a child from his/her home.

Other service providers criticized the CAU for switching their position once inside the courtroom, to the surprise of agencies with whom agreements had been struck. In addition, several respondents noted that CAU had failed to follow-up on specific cases where families proceeded to disintegrate to crisis situations.

## Towards an Ideal Child Advocacy Agency

The evaluation team asked all respondents to envision an ideal child advocacy unit and to discuss various contextual consideration in developing such an agency. These responses centered around three themes:

A. The Structure of the Ideal Agency
B. The Interplay of Values
C. Relations with the wider Community

### A. The Structure of the Ideal Agency

A child advocacy agency should have the intellectual and professional direction of a mature person qualified in law, child welfare, and administrative skills. All staff of a child advocacy agency need to be bright, concerned, creative, aggressive and articulate. Extensive training for attorneys and for social workers is required to prepare both disciplines to understand each other, and to work together in this specialized field. Adequate pay as well as organizational procedures to protect staff members from burning out - losing their zest and compassion from overwork - were

emphasized. Use of the perspectives and vitality of professional and lay volunteers should augment a paid staff.

The need for a more reasonable caseload was a major concern of all respondent groups. Limiting the number of cases accepted and increasing the number of attorneys, social workers, or both, should create a manageable case load, which would permit more thorough investigation, systematic follow-up, and equitable attention to all cases. Some respondents suggested that judges may have to be more selective in referring cases for representation, a change that currently contradicts the Pennsylvania Statutes. A multidisciplinary approach is universally recommended, but requires extraordinarily good communication and cooperation among staff on a case-by-case basis. Suggestions for adequate case management included a fixed follow-up schedule, inter-agency case conferences prior to hearings, and joint social worker-attorney case planning.

Attorney-client relations need to be improved and the role of the child advocacy attorney clarified. Attorneys should be permanently assigned to specific cases rather than to court days to ensure deeper involvement and knowledge of the cases. Attorneys should talk to their clients - and the parents - before the hearings. Attorneys should aggressively assert their clients' rights in and out of court. The case planning and negotiation stages should serve to reduce acrimony among the parties and stress on the family, but should never deteriorate into an administrative determination of a child's fate without the full participation of the family and the protections of the court. The child advocate should assert the child's interest so as to inspire confidence among clients and their families and among peers in the field.

B. <u>The Interplay of Values</u>

There are wide variations and even contradictions in respondents' views about the values a child advocacy agency should serve. Even an ideal agency will have to reconcile conflicting community viewpoints, either passively or aggressively, in order to survive. Most respondents agreed that an open and direct approach would be most beneficial in the long run; that is, an advocacy agency should be clear about its own values, and should aggressively educate the community about its driving philosophies.

If necessary, the agency should organize defenses among its financial and political backers to neutralize in advance any attacks that could distract advocacy staff from their primary duties, imperil their credibility in the community, or weaken the service given by the agency to its chosen values. And an ideal agency should experiment, testing various approaches and strategizing with others in the field to optimize achievements.

Respondents described many sets of interconnected values extant in the local community. Value conflicts which a child advocacy agency must address include the following:

- Community values: supportiveness vs. punitiveness toward disobedient children; supportiveness vs. punitiveness toward abusive parents; parental responsibility vs. community responsibility;
- Legal professional values: due process protection of children's rights by adversarial means vs. negotiated settlement; the child's wishes vs. independent determination of the child's interests by adults; service delivery vs. contributions to legislation and case law.
- Judicial values: expeditious dispositions of cases vs. exhaustive hearings; intensive vs. minimal involvement of the court in the details of cases; rights of the child vs. rights of the parents vs. rights of the state; some degree of advocacy service to all children vs. high quality service to the most complex cases.
- Law enforcement values: prosecution vs. rehabilitation of disobedient children; prosecution vs. rehabilitation of abusive parents; minimal restraint of turbulent children vs. safety of custodial placement.
- Social service values: short-term planning vs. permanency planning; maintenance of the natural family vs. improving the child's environment; economy vs. exhaustive treatment; freedom vs. protection.

Value differences are responsible both for conflict among agencies and for disorganization in service delivery. However, many respondents suggested that value differences are less important when high performance standards prevail, and that some heterogeneity and flux are to be preferred.

C. Relations With the Wider Community

Respondents set high standards indeed for the ideal advocacy agency's external relationships. Independence must coexist with a spirit of cooperation. Dependence on governmental funds must not compromise representation.

Coordination

The ideal child advocacy agency should take a leading role in bringing about improvements in the child welfare and justice systems. It should organize all involved parties around crucial issues, present alternate solutions, educate, and press for effective legislation and adequate allocations. It should participate heavily in planning groups and interagency seminars. The advocate should encourage open-communication and cooperation even where policy differences prevail.

Politics

Any advocacy agency exists in a political world, both in the sense of partisan politics and within bureaucracies. To the extent that a child advocacy agency owes its existence to the support of a political group, it must be less independent with respect to the values it can serve. It can also expect attack on ideological and economic grounds by other political groups simply because of its associations.

On the other hand, it may be impossible for an advocacy unit to come into existence without the support of a political faction. Organizers of a child advocacy agency who accept political support must be aware that the support, and possibly the agency, may disappear if the political group loses its power, or if the advocacy agency becomes an embarrassment or ceases to attract the kind of attention that generates votes. Once in existence, the advocacy agency should work to develop a support base independent of political identification. This is more difficult if the agency began as a political creation than if it was independent from the outset.

In addition to party affiliations, an advocacy agency may become involved in the bureaucratic politics within community government. The issues in bureaucratic politics are similar to those in partisan politics - a bureau or group that supports the cre-

ation and preservation of an advocacy unit does so to produce an advantage for itself, and can exercise control over the advocacy agency. Acceptance of bureaucratic support involves the advocacy agency in bureaucratic struggles. Independence is desirable, but without the support of government it may not be possible for an advocacy agency to come into being.

While the acquiesence of governmental agencies is necessary for a child advocacy agency to come into existence, support of this kind entails far less dependency than does political or financial support. If an agency can be accepted on its merits, funded by a variety of sources including foundations, and staffed as largely as possible by volunteers, it has a better chance of accomplishing its purposes and building a strong record for integrity, efficiency, and impartiality. Such a record provides a basis - but not a guarantee - for non-partisan public funding.

The Judiciary

There is enormous variation in election and appointment mechanisms for judges, their qualifications, and the autonomy they enjoy within the judiciary and within the community government. Courtroom procedures, adherence to legal formality, and latitude afforded attorneys vary widely. The judiciary has the capability of rendering an advocacy agency extinct by refusing to assign cases to it. Organizers and directors of an advocacy agency will be in a state of continual tension between aggressive advocacy - with the attendant challenges, interlocutory questions, and appeals that slow down hearings - and practicing in a fashion acceptable to the judges. Judges vary in the degree to which they emphasize expeditious handling of cases, legal professionalism, and paternalistic omniscience. An organizer of a child advocacy agency needs detailed information about the judges from the judges themselves and from others who have observed them in action.

## APPENDIX A

## CONTEXT EVALUATION OF THE DEFENDER CHILD ADVOCACY UNIT

### Structured Interviews

CAU Personnel

1. Benjamin Lerner, Esq. Public Defender
2. Alice Tuohy O'Shea, Esq. Child Advocate
3. Julius Jackson, Esq. First Assistant Child Advocate
4. David Mullins, Esq. Assistant Child Advocate
5. Gwendolyn Bright, Esq. Assistant Child Advocate
6. Douglas Dick, Esq. Assistant Child Advocate
7. Michael Connery, M.A. Director of Social Service
8. Dr. Najma Davis, Assistant Director
9. Jacqueline Robins, Social Worker
10. Christine Bradley, Social Worker
11. Charles McKinney, Social Worker
12. Michael Lewis, Social Worker
13. Robert Reed, Investigator
14. Gloria Richardson, Investigator
15. Jeanne McDevitt, Supervisor, Administrative Section
16. Jennifer Willis, Secretary
17. Barbara Stetto, Student
18. Maureen Ryer, Student

Family Court Judges

19. Judge Frank J. Montemuro, Jr., Administrative Judge
20. Judge Paul Dandrige
21. Judge Edward Rosenberg
22. Judge Doris Harris
23. Judge Evelyn Trommer
24. Judge Nicholas Cipriani

Family Court Staff

25. Dr. Leonard Rosengarten, Chief Deputy Administrator
26. Rae Wardino, Mental Health Supervisor
27. Charlotte Butler, Chief of Court Services
28. Rocco Donatelli, Chief, Juvenile Intake and Probation
29. Mrs. Rosann, Medical Social Worker
30. Ms. Joplin, Medical Social Worker
31. Ms. Trimble, Probation Officer

Other Child Advocacy and Juvenile Justice Agencies

32. Jake Armstrong, Executive Director
    Youth Services Coordinating Office

33. Charles Pugh
    Youth Services Coordinating Offices

Other Child Advocacy and Juvenile Justice Agencies (cont'd.)

34. Richard Moore, Executive Director
Criminal Justice Coordinating Office

35. Marsha Levick, Esq., Director
Juvenile Law Center

36. Robert Schwartz, Esq.
Juvenile Law Center

37. Carole Schrier, MSW, Esq., Director
Support Center for Child Advocates

38. Margaret Kreitzer
Support Center for Child Advocates

39. James Redeker, Esq., Board Chairman
Support Center for Child Advocates

Legal Professionals

40. Mary Rose Cunningham, Esq. Assistant City Solicitor
Assigned to Department of Public Welfare

41. Jane Greenspan, Esq. Assistant District Attorney
Chief, Complaint Intake and Domestic Abuse

42. Harry Tischler, Esq. Assistant District Attorney
Chief, Juvenile Unit

43. Ann Shallock, Esq.
Community Legal Services

44. Richard Gold, Esq.
Community Legal Services

45. Deborah Harris, Esq.
Community Legal Services

46. Doug Frenkel, Esq. Director
University of Pennsylvania Legal Aid Clinic

47. Robert Paul, Esq.
The Hall-Mercer Center of the Pennsylvania Hospital

48. Judge Lisa Richette
Court of Common Pleas

Department of Public Welfare

49. Mary Smith, Assistant Director
Children and Youth Services

50. Edna Mundy, Chief
Court Unit

51. Lilly Lang, Chief
Child Protective Services

52. Susan Kalinowski
Caseworker

53. Dee Sharlippe
Caseworker

54. Wesley Brown
Caseworker

55. Oswald Smalls
Caseworker

Other Agencies

56. Minette Gordon, Harrisburg Liaison
Philadelphia Youth Advocacy Program

57. Rocko Holloway, Coordinator
Philadelphia Youth Advocacy Program

58. Dr. George Chu, Director of Inpatient Services
Child Guidance Center

59. Joseph Columbatto, Director
Woodhaven Center

60. Mary Wallace
Philadelphia State Hospital

61. Anne Semerini
Philadelphia State Hospital

62. Dr. Weinman, Director, Adolescent Program
Philadelphia State Hospital

63. Jeannette Shapiro, MSW
Eastern State School and Hospital

64. Fred Griffin, MSW
Eastern State School and Hospital

65. John Taasse, Director
Carson Valley School

Other Agencies (cont'd.)

66. Jim Brock, Director of Social Services
Catholic Home for Girls

67. Mrs. Andress, Associate Director
Family Services of Philadelphia

68. Nancy Colbaugh, District Director
Family Services of Philadelphia

69. Curtis Murray, Director of Social Services
Northern Home for Children

70. Curtis Ingram, MSW
Southern Home for Children

71. Joyce Reid, Social Work Supervisor
Philadelphia Society to Protect Children

72. Vivian Bennett, Social Worker
St. Christopher's Hospital
Family Resource Center

73. Kathy Hemple, R.N.
SCAN Center

74. Stephen Ludwig, M.D.
Children's Hospital of Philadelphia

75. Tony Seidl-Freidman, MSW
Children's Hospital of Philadelphia

76. Mary Leitch, Administrative Supervisor
Interchurch Child Care

77. Pamela Washington, Social Worker
Methodist Home of Children

78. Paul Kiesling, Director
Lakeside Boys Home

79. Dr. Leon Soffer, Deputy Commissioner
County MH/MR Office

80. Jerry Cousins, Adolescent Advocate
Jefferson Children and Family Services

81. Allen Baxter, Assistant Director
Pupil Personnel and Counseling
Philadelphia Board of Education

82. Esther Smith, School Counselor
McClure School

# APPENDIX B

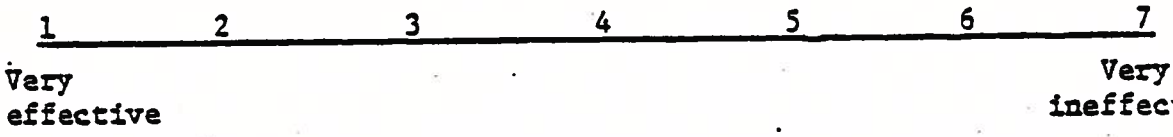
## CONTEXT EVALUATION OF THE DEFENDER CHILD ADVOCATE UNIT

### Rating scale used by CAU staff and members of other constituencies to evaluate the CAU

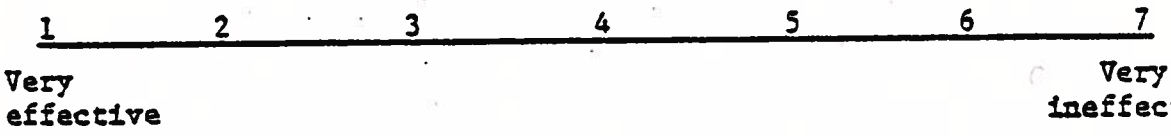
## RATING SCALE

Please rate the Child Advocacy Unit on the following functions:

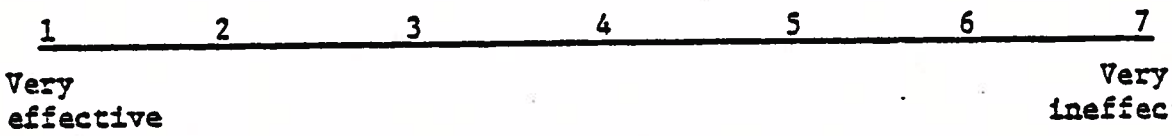
1. Effectiveness in managing CAU's own operations.



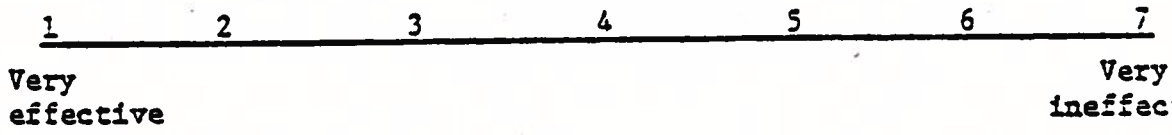

2. Effectiveness in investigating the life situations of CAU clients.



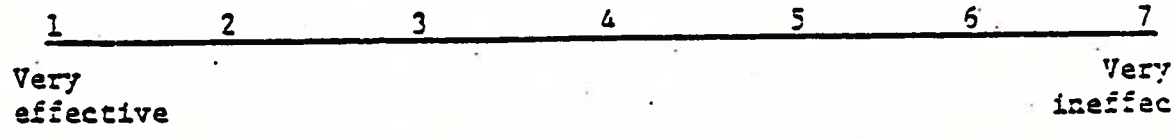

3. Effectiveness in developing independent recommendations for CAU clients.



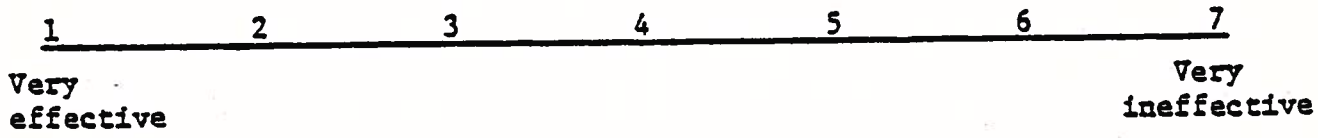

4. Effectiveness of legal representation.



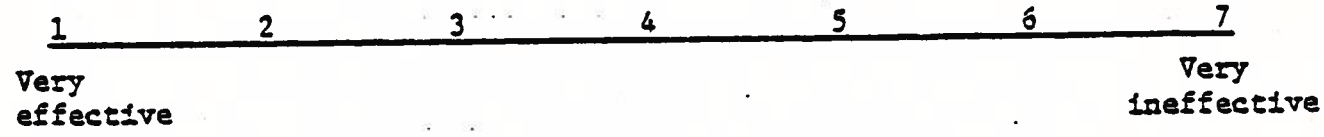

5. Effectiveness in operating independently as the child's counsel in the courtroom.



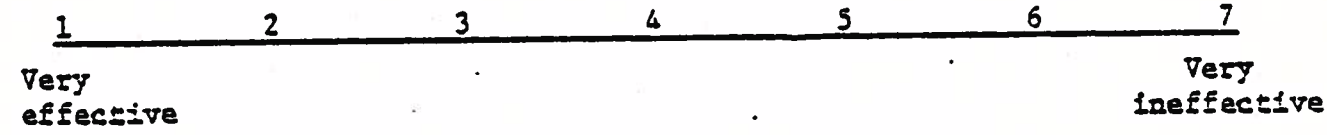
6. Effectiveness in getting clients appropriate services.



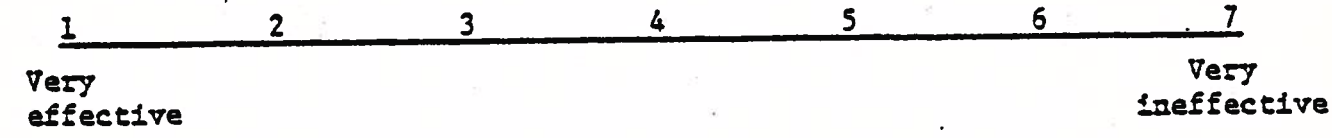

7. Effectiveness in following-up on clients.



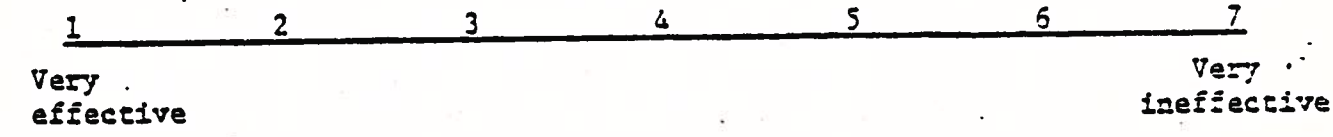

8. Effectiveness of interdisciplinary cooperation within the agency.



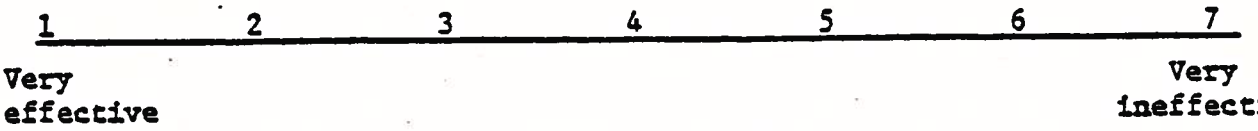

9. Effectiveness of communication and coordination with other agencies.



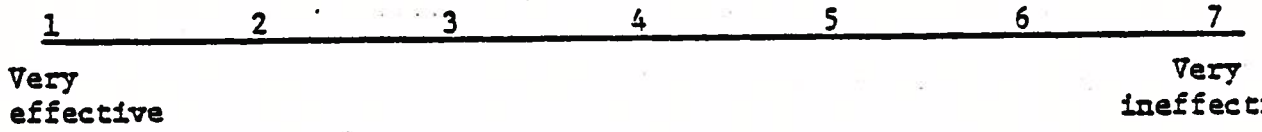

10. Effectiveness of multidisciplinary advocacy model.



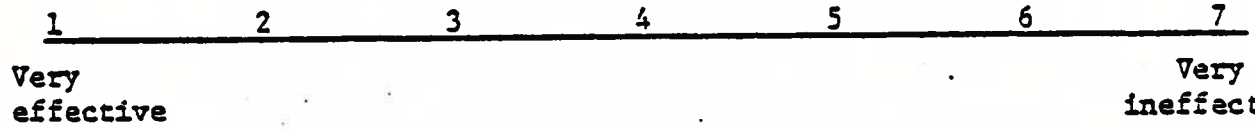
11. Effectiveness in keeping clients' families together.



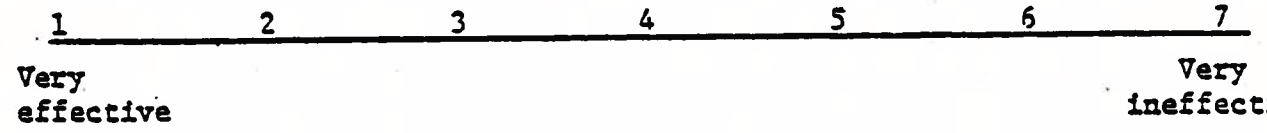

12. Effectiveness in preventing and reducing delinquency.




13 Effectiveness in improving social service delivery to youth.




14. Effectiveness in contributing to child advocacy law through legislation and litigation.



# APPENDIX C

## CONTEXT EVALUATION OF THE DEFENDER CHILD ADVOCACY UNIT

Structured Interview Schedule used for interviews with judges, court officials, DPW staff, service provider agency staff, members of the legal professional community, staff of other advocacy agencies, law enforcement officials, and staff of the school system. Item 13 was not used and has been deleted.

For interviewers with judges, item 2 was replaced with "How does the CAU compare to other agencies which supply legal representation?"; and items J19, J20, and J21 were added.

Interviews were provided with structured interview worksheets in which each questions was on a separate page.

STRUCTURED INTERVIEW SCHEDULE

1. How did the CAU begin and develop? What political, legal and philosphical elements were necessary?

2. Describe your contact with the CAU (its nature and frequency) + key contact person.

3. How do you use CAU input? Is it valuable? Does the CAU use your input?

4. Have you experienced conflict with the CAU? (Cite instance) How was it handled?

5. Do you and the CAU generally agree on the handling of specific clients?

6. Have your procedures changed as a result of CAU?

6. Have your procedures changed as a result of CAU?

7. How do you feel about the CAU's social service investigations and recommendations?

8. How do you feel about CAU's legal representation of clients?

9. Is CAU managed effectively? How would it function with different leadership, different staff?

10. What improvements need to be made in the CAU? Could your relationship with CAU be improved?

11. Describe CAU's relationship with the Family Court, the Department of Public Welfare, and the Public Defender.

12. How does CAU differ from other child advocacy approaches (e.g., full-time staff instead of roster of private attorneys?

14. Is the CAU functioning as an independent advocate? Should it?

15. Has the CAU made an inpact on child advocacy laws or litigation?

16. Should a child advocate represent the child's stated wishes or the advocate's idea of "the best interests of the child?"

17. Should a child advocate be an adversary of or a negotiator with the Court, The child's parents, and the Department of Public Welfare?

18. Fantasize about an ideal advocacy agency:

Staff make-up - sizes & disciplines

Administration and location

Case or class advocacy