

chapter

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# Meeting the Needs of Very Young Children in Dependency Court



**E**arly experiences and relationships significantly impact a child's development.<sup>1</sup> From birth to five years old, children develop the foundation for their future linguistic, cognitive, emotional, social, regulatory and moral capabilities.<sup>2</sup> The science of early child development clearly shows the importance of parenting and regular, consistent caregiving to a child's healthy growth and development.<sup>3</sup> The health and well-being of children's parents or primary caregivers are also crucial to a child's early development.<sup>4</sup>

The growth and development of very young children are profoundly affected by abuse, neglect and removal. As the largest group to enter the child welfare system, very young children who become the subject of dependency court proceedings face multiple disadvantages, traumas, and losses during a critical time of early brain development.

As a judge who handles child welfare cases, the cumulative effect of harmful early life experiences likely challenges your efforts to seek positive developmental and permanency outcomes for children birth through five years old. However, this stage of development can also provide opportunities to intervene early and pursue strategies to clear the path for healthy growth and development. You can take advantage of this opportunity by collaborating with health care professionals, child welfare workers, and others to implement proven interventions and use science to inform your decision making.

## How Very Young Children Experience the Child Welfare System

Age is strongly associated with (1) the likelihood of a child entering the child welfare system; (2) how long children remain in out-of-home placements; (3) how children exit the system; and (4) the likelihood of reentry.<sup>6</sup> Even considering other factors such as economics, policy, administrative structure, and method of service delivery, age largely determines what happens to children in foster care.<sup>7</sup>

A baby's social-emotional development, specifically attachment to a primary caregiver, is affected by removal from his parent and multiple placements while in care.<sup>8</sup> Research shows that young children, even newborns and infants, experience long-lasting sadness, grief, loss, and rejection.<sup>9</sup> Separations occurring between six months and approximately three years of age are even more likely to cause later emotional disturbances.<sup>10</sup> These findings stress the need to consider the social-emotional development of very young children when making judicial decisions about removal, placement, and permanency.

## Key Terms

- ▶ **Very young children and infants, toddlers, and preschoolers:** used interchangeably to describe children from birth through age five
- ▶ **Infants:** children from birth to one year old
- ▶ **Toddlers:** children between the ages of one and three years old
- ▶ **Preschoolers:** children ages three through five
- ▶ **Court-involved children, dependent children, and children in care:** very young children under the jurisdiction of a judge or court system that oversees dependency matters (civil child welfare proceedings), irrespective of a child's physical placement.<sup>5</sup> This book applies to all infants, toddlers, and preschoolers who are or have been the subject of a dependency petition, whether they are living with their biological parents, relatives, nonrelatives, or in a licensed foster home or group home.
- ▶ **Foster caregivers and foster parents:** includes kinship caregivers and relative and nonrelative caregivers

## Entering Care

Of the 311,000 children who entered care across the United States in 2005, those from birth through five years old represented 38% of new admissions.<sup>11</sup> This was largely because 15%, or 46,954, of the new admissions were infants less than one year of age.<sup>12</sup> More recently, a national study found that 91,278 babies in the United States under age one were victims of nonfatal child abuse or neglect between October 2005 and September 2006.<sup>13</sup> Of these babies, 29,881 were victims of neglect (70%) or physical abuse (13%) before they reached *one week* of age.<sup>14</sup>

Very young children who enter the child welfare system are disproportionately children of color. Although African American children make up only 15% of the U.S. population of children, they represent approximately 37% of the children in the system.<sup>15</sup> In 2005, the placement rate of infants in foster care was 18.8 for every 1,000 African American children in the United States.<sup>16</sup>

A primary reason that very young children enter care is identified maternal drug and alcohol abuse.<sup>17</sup> This is especially true for newborns identified as exposed to drugs or alcohol through a toxicology report in the hospital.<sup>18</sup> Increased reporting and economic pressures facing families may also contribute to the high number of very young children entering care. Our ever younger child population overall, as well as wider use of early interventions, are likely related to the influx of infants, toddlers, and preschoolers into the child welfare system.<sup>19</sup>

## Time in Out-of-Home Care

Once removed from homes and placed in foster care, infants and toddlers are more likely to stay in foster care for more than one year.<sup>20</sup> According to the 2006 Adoption and Foster Care Analysis and Reporting System (AFCARS) report for fiscal year 2005, of those children with a goal of adoption and/or whose parental rights had been terminated, 59% entered care at age five or younger.<sup>21</sup> Of the 59% of children 'waiting' for adoption as of September 30, 2005, 23% had entered care before their first birthday.<sup>22</sup> Another study underscored the challenges facing these 'waiting' children, finding that 50% of the children who were first placed as infants with a permanency plan of adoption took more than 39 months to be adopted, with nearly 17 of the 39 months accruing *after* becoming legally free for adoption.<sup>23</sup>

## Challenges for Very Young Children in Out-of-Home Care

Because of their exposure to conditions that are not conducive to healthy development, many very young children in care have a mixture of physical, developmental, and emotional challenges. Factors such as low birth weight and lack of prenatal care are closely related to long stays in care.<sup>24</sup> These deficits often cause the child to have multiple needs that may complicate attaining positive and permanent placements. Additionally, infants and toddlers are more likely to be neglected and abused while in care than older children, especially babies who enter care between birth and three months of age.<sup>25</sup>

## Exits from the Child Welfare System

Although the probability of adoption is much higher for children entering out-of-home care before their first birthday than for older children, the likelihood for reunification is much lower.<sup>26</sup> Only 36% of infants who enter care between birth and three months of age are reunified with their parents, and 56% of infants who enter care between 10-12 months of age are reunified with their parents.<sup>27</sup> Poor reunification rates for the very youngest children partly relate to the physical, emotional and/or developmental needs resulting from limited prenatal care, unhealthy living situations or abuse and neglect.<sup>28</sup> Also, because substance abuse is common among mothers of very young children in care, many addicted parents cannot become clean and sober within the constraints of the Adoption and Safe Families Act's (ASFA) timelines.

As with entry into foster care, disproportionality is evident when looking at exits of children of color from foster care. Like older children of color in care, very young children of color spend longer periods in care than their white counterparts and are less likely to be adopted once parental rights are terminated.<sup>29</sup>

## Reentry

One-third of infants discharged from the child welfare system reenter care.<sup>30</sup> Evidence shows that infants who return to foster care experience much longer stays in care upon their return.<sup>31</sup> Reentry rates for infants discharged to relatives are lower than those for infants reunified with biological parents (this is also true for older children).<sup>32</sup>

## How the Bench Can Make an Impact

Courts, in partnership with multiple systems, can reduce the number of very young children in out-of-home placements and minimize the effects of maltreatment and removal on their development. As the judge, understanding the unique needs of young maltreated children can help you ensure their needs are met on all levels (developmental, physical health, mental health) by promoting appropriate screening, assessments and interventions; ensuring regular contact with biological families; making appropriate placements; and expediting permanency.

By understanding how health, early child development, attachment, placement and safety interrelate, you can better promote positive and permanent outcomes for very young children. This is a compelling endeavor because decisions in dependency court often influence whether a baby develops into a securely attached, healthy, well-functioning child, or takes a different course in her development.

Many judges across the country have taken the lead in elevating the needs of babies, toddlers, and preschoolers in their jurisdictions through court-run projects, interventions, publications and collaborative models. The elements that underlie the success of these efforts are detailed in the final chapter of this book. By incorporating them into daily practice judges can shape policies and practices that identify and address the multifaceted needs of very young children in care.

This book serves as your guide to the wide array of health needs of very young children in care. By sharing current research on physical health, child development, attachment, infant mental health, and early care and education, the authors provide tools and strategies to help you promote better outcomes for babies, toddlers, and preschoolers who enter your courtroom. Specific goals are to:

- Underscore the sense of urgency for the youngest children in care and build consensus among judges who work with this population that a special focus is necessary to ensure the child protection system and courts take care of these vulnerable children.
- Synthesize extensive research about young children in general and specific research related to young children in care that apply to judges' daily decision making.

- Provide strength-based, holistic tools and techniques to support judges in achieving positive outcomes for this population, including strategies to reduce the harm caused by removal and long stays in care, and mediate the impact of maltreatment and resulting developmental delays and impairments.
- Offer information about evidence-based programs and interventions that can aid judges and other child welfare professionals in building community-based supports for very young children.

## How This Book Is Organized

Entire volumes are devoted to the topics presented in the following chapters. Reducing decades of research and practice into a succinct and useful resource is challenging. Moreover, human development is complex and influenced by many factors. Genetics, environment, trauma, and support systems impact each other and interact with overall child development and well-being. Discussing attachment and mental health independently from physical health and development for very young children presents logistical challenges, which become more complex when the child has been maltreated and exposed to multiple caregivers and environments. Thus, while divided into discrete topical chapters, this book should be viewed as an integrated resource for making decisions for very young children under the jurisdiction of the dependency court.

- **Chapter 2 examines physical health needs** of infants, toddlers and preschoolers as well as special health-related considerations for very young children under dependency court jurisdiction. Special health needs and medical issues that arise for these children are explored. Comprehensive health assessments, specific health-related screenings, and immunizations are reviewed.
- **Chapter 3 examines mental health and developmental needs** of very young children in care within the context of essential relationships. This chapter discusses the very young child's social-emotional development, the basic need for secure and stable attachments, and the impact of trauma on the mental health of the very young child in dependency court. The cognitive and developmental needs of infants, toddlers, and preschoolers in care are described, with a focus on screening and intervention to address and prevent delays. The chapter shares practices that support the healthy cognitive and social-emotional development of very young children in dependency court.



This chapter also **explores early care and education settings** for infants, toddlers and preschoolers in the child welfare system. Many very young children involved with the dependency court process are not only in out-of-home living arrangements, but also in child care centers, family group care settings, or early education programs such as Early Head Start/Head Start and prekindergarten programs. This chapter describes these programs, discusses the importance of quality early care environments, and examines the potential added value these settings may have in the developmental process of a very young child in care.

- **Chapter 4 focuses on permanency planning strategies and postpermanency supports** for very young children. It places the information in the preceding chapters into the context of the dependency court process and the overarching systemic goal of timely permanency for very young children in care. This chapter uses the *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases*<sup>33</sup> as a framework for discussing key decisions for infants, toddlers, and preschoolers at each required hearing. A significant portion of Chapter 4 discusses permanency outcomes and options from a very young child's perspective and strategies for preventing postpermanency reentry into care.
- **Chapter 5 concludes with a brief Call to Action** for judges and other child welfare system partners to explore and make meaningful systemic changes for very young children in care. It focuses on judges as change agents who can advance policies and interventions that minimize the harm to young children of long stays in care and support their healthy development while under the jurisdiction of the dependency court.

## Endnotes

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3. Ibid., 7.

4. Ibid.

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33. *RESOURCE GUIDELINES: Improving Court Practice in Abuse and Neglect Cases*. Reno, NV: National Council of Juvenile and Family Court Judges, 1995.