PERCEPTIONS OF PROCEDURAL JUSTICE IN CHILD PROTECTION: A STUDY OF FAMILY GROUP CONFERENCING

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Abstract

Family Group Conferencing (FGC) is an emerging technique for planning interventions in child protection. As an emerging technique, the theoretical support and empirical research of FGC is yet in its infancy. This paper adds to the burgeoning body of literature on FGC. Using qualitative and quantitative methods this paper explores some process outcomes of FGC. Group comparisons were made between child protection clients in Hawaii receiving FGC and child protective services (CPS) clients who had service plans developed using traditional means. Specifically, perceptions of fairness, legitimization of CPS, ambiguity about CPS involvement and satisfaction were explored in this study. FGC participants were also interviewed to gain further understandings of their experiences with FGC.

The outcomes being examined in this paper were guided by a decision making model which is based on restorative justice and procedural justice theories. The model proposes that when FGC is used, CPS clients will feel they have been treated more fairly, view CPS as more legitimate, experience less ambiguity about their involvement with CPS and be more satisfied with CPS services than when FGC is not used. These propositions were derived from the integration of literature relating to the historical and structural development of the child protection system and empirical and theoretical literature relating to the social-psychology of justice.

The quantitative and qualitative results of this study support the continued use of FGC in child protection. Moreover, the data presented here suggests that the proposed model provides a useful guide for framing the underlying processes of FGC. Those clients who attended family group conferences demonstrated marked improvements on
all of the outcomes under study. Similarly, qualitative interviews support the relevance of
the proposed model. CPS clients value the opportunity to contribute to the planning of
their services and are capable of resolving many protective issues with the assistance
their families. FGC also appears to be successful means of neutralizing ambiguities about
CPS involvement and are a culturally sensitive means of engaging families.
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CHAPTER I

INTRODUCTION

Each year in the United States child protection agencies identify nearly one million cases of child abuse and neglect (Children's Bureau, 2000). Child abuse fatalities have increased from 1,097 in 1997 to 1,400 in 2002 (NCANDS, 2004) and combined with homicide, child abuse is the leading cause of death among children in the United States (Johnson, 2002). Child abuse has a far-reaching impact on the lives of children that stretches well beyond the overt physical effects of injuries and extends well into adulthood (Wolfe, 1999). Victims of child abuse are at greater risk of drug abuse and aggressive behaviors than the general population (Clark, Stein, Sobota, Marisi, & Hanna, 1999) and tend to have lower self-esteem than non-abused children (Oates, Forrest, Peacock, 1985). Child abuse victimization has been associated with adolescent and adult onset of psychiatric disorders, particularly personality disorders and depression, and problematic behavior (Johnson, Cohen, Brown, 1999; MacMillian et al., 2001; Milling, 1995; Johnson et al., 1999). Individuals with life histories of abuse are at a three-fold greater risk of attempting suicide throughout their life span (Dube et al., 2001).

The enormity of the problem of child abuse and its deleterious and often chronic effects on children warrant a concerted social response. However, efforts to ameliorate child abuse in the United States have met with limited success. No doubt, the system of child protection that has developed over the past century has saved children's lives, but it has made little progress in reducing the numbers of children being abused. Incidence studies show that, until recently, child abuse incidents have steadily increased
(NCANDS, 2000), and the accuracy of recent declines is brought into question by corresponding increases in child abuse fatalities (Johnson, 2002).

Increasing demands on child protection systems suggest that additional resources may be needed for an effective response to this problem. This paper examines one resource that has often been overlooked by child protection agencies—the extended family. Specifically, it examines the potential benefits that affording extended families greater responsibility for child protection can have at both a macro-level, by fostering partnerships between the state and family, and at the micro-level, by improving satisfaction and compliance among abusive families.

Recent changes in the social response to child abuse and neglect have begun to place an increased reliance on extended families\textsuperscript{1} for child protection. Yet, little is known about the consequences of expanding the responsibility for child protection to extended-family networks. Nonetheless, child welfare agencies are increasingly turning to the family as a resource for child protection. There are two ways that extended families are typically included in formal child protection services. Extended family members may serve as surrogate caregivers or as active participants in the child protection process and members of the child protection team, which may or may not involve the fosterage of kin.

The first means of involvement, kinship foster care, is a somewhat restricted inclusion of the extended family. In these cases family members voluntarily serve as foster parents to children related to them by blood or marriage; however, beyond their

\textsuperscript{1} Extended families, in the context of this paper, refers to those individuals related to a child biologically, through marriage, or other arrangements which are recognized by family members as being of sufficient depth to warrant such recognition.
involvement as foster parents, they typically have little say in the decision-making process beyond accepting the responsibility of serving as foster parents to their kin.

The second form of extended family involvement, known as Family Group Conferencing (FGC), fully integrates the extended family into the child protection process. In this capacity the extended family, along with the nuclear family and social service personnel, and in some instance community members, help to develop and implement a plan to promote the well-being of abused children and their families.

FGC is an approach towards child protection that emphasizes the strengths of the extended families and places greater responsibility for child welfare with families and communities. According to Pennell & Burford, (2000, p.137), “The term [Family Group Decision Making-FGDC] was coined to emphasize that the family group, made up of the immediate family and its relatives, friends, and other close supports would decide what steps needed to be taken to stop the maltreatment”. Originating in New Zealand, the FGC model of FGDM was developed in response to increasing disaffection with child welfare practices, particularly regarding the treatment of New Zealand’s indigenous Maori population. FGC became formalized in New Zealand with the passage of The Children, Young Persons and Their Families Act in 1989 (Love, 1999), a law that mandates the use of FGC for all cases of child maltreatment.

The FGC model was designed in recognition of the importance that kinship networks and community memberships play in Maori culture. Since its inception and implementation in New Zealand, the FGC model has been replicated in several countries and applied to a variety of social problems. In the United States, FGC programs have been developed in several states and local municipalities. As of 1999, 32 programs
throughout the United States have adopted FGC programs based on the New Zealand model (Rodgers, 2000), although the scope of these programs varies considerably by locality. Some programs are limited to specific jurisdictions, while a few have been implemented for entire states such as Oregon and Hawaii. Although increasing in popularity, FGC has yet to permeate mainstream child welfare practice. Furthermore, programs in the United States do not mandate convening FGC conferences for child protection cases as New Zealand has done; thus, child protection workers continue to hold sway over FGC throughout the United States.

The use of the FGC model in child protection is likely to have a pronounced effect on the functioning of the agencies that are responsible for child protection. Simply relying on kin members as surrogate parents does not possess much potential for transforming the underlying ideological and structural elements of the child welfare system. For substantive transformation to occur, kin must be active participants in all aspects of child protection, which includes determining the best course of action for ensuring a child’s safety and maximizing his or her developmental potential. It is to this end that FGC shows promise.

**Background & Rationale**

The FGC model is a relatively simple one; however, its simplicity can obscure the underlying complexities of the child protection system and the challenges that its use creates for the system (Taylor, 1999). The transfer of responsibility for child protection from the state to the family, by necessity, requires a redistribution of power between the state and the family. Thus, the major objectives of this research project were to identify and describe the underlying power dynamics in the relationship between child protection
workers and the families they serve; describe how current practices impact the perceptions of clients and the outcomes of child protective services (CPS) interventions; and explore the transformations that occur when FGC is used as an alternative to traditional child protection decision-making processes.

Although FGC has become increasingly popular in the United States and internationally, relatively little research has been conducted on the model itself. Much of the research to date has focused on evaluating discrete outcomes for specific programs, which will be reviewed in depth later in this chapter. These program evaluations, although useful for identifying the effects of FGC, do little to elucidate the causal mechanisms leading to those effects. Thus, the theoretical support for FGC is sorely underdeveloped. A goal of this research was to integrate and test key theoretical material related to FGC. Drawing from a variety of theoretical and conceptual models, including restorative justice, social exchange theory, empowerment theory, and procedural justice theory, I describe key processes underlying the application of FGC. Furthermore, I integrate these theoretical processes to predict specific outcomes of the application of FGC to child protection practice.

As the core aim of this research is to explore the transformative powers of FGC, it is first useful to examine the state of child protection practice. In subsequent sections, I trace the evolution of the child welfare system in America, providing support for the assertion that the balance of power for child protection currently rests with the state. Furthermore, I support the notion that inconsistent ideological and bureaucratic structures within the child welfare system have served to minimize the effective use of that power for achieving just outcomes for families served by CPS. Next, I describe the emerging
reliance on extended families as child protection resources. I also describe the FGC model and review the theoretical and evaluative research related to its use in child protection. Finally, I provide support for my thesis that such practices may have the potential to bring about major ideological changes within the child welfare system and at a minimum serve as an impetus for achieving just outcomes and greater compliance among those served by the child welfare system.

The Origins of American Child Protection Ideology

Despite billions of dollars expended on countless prevention and treatment initiatives and myriad state and federal laws, many critics of existing child welfare policies contend that there has been relatively little progress toward ameliorating child abuse in the United States. The child welfare system has grown exponentially in recent decades while tending toward increased disorganization, role confusion and declining professionalism (Schorr, 2000). To further complicate the social response to this problem, policies are often fragmented and fraught with inconsistencies and competing priorities (Wolfe, 1999).

To support this view of the child welfare system, it is first useful to consider the evolutionary process that has led to this state of affairs. Through the course of this section, I will review major developments in child welfare policy; describe policy developments and practices; and analyze current trends and future directions in child protection. The emphasis of my analysis is on highlighting certain aspects of child

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2 The term child welfare is used to connote a general class of benefits and protections afforded to children. Child protection refers to a specific class of benefits and services designed to prevent maltreatment at the hands of a caregiver. Similarly, the child welfare system refers to agencies and formal social institutions responsible for the allocation of child welfare benefits; whereas, the child protection system is responsible for the allocation of specific benefits to prevent and treat incidence child abuse and neglect.
welfare policy that have served to create systemic discontinuities in our approach towards child protection.

"American child welfare has its roots in English Elizabethan Poor Laws, which were designed to protect society from the poor rather than to protect the poor." (Terpstra & McFadden, 1993, p.116). Thus, early child welfare efforts were focused on preventing delinquency by shielding children from the damages caused by poverty brought about by increased industrialization and the concentration of poverty in urban areas (Peled & Kurtz, 1994). It was to this end that Charles Loring Brace founded the Children's Aid Society in New York City in 1853. The aims of the Children's Aid Society were made clear in the first circular published by the Society: "We hope, too, especially to be the means of draining the city of these children, by communicating with farmers, manufacturers or families in the country, who may have need of such employment" (Schneider, 1935, p. 331).

The Children's Aid Society of New York set about conducting an organized migration of abandoned, neglected, and delinquent children from the slums of New York City to rural farming communities throughout the Eastern and Midwestern United States. In its first decade of operation, 4,614 children were placed in such a way and similar programs sprang into existence throughout New York State and elsewhere. Despite their success in clearing the streets of indigent children, the Society ultimately failed in its goal of promoting the well-being of children.

Constant abuses of children placed by the Society and nearly nonexistent follow-up by the Children's Aid Society eventually led to a statutory ban on placing children outside of the State of New York. Another factor that led to the demise of Brace's
program was conflict with the Catholic Church which strongly opposed the placement of Roman Catholic children into Protestant homes. Consequently, the Catholic Church established its own network of orphanages. Although the Society’s efforts were curtailed because of poor follow-up and religious conflict, the emphasis on out-of-home placement for children, whether disadvantaged by poverty or maltreatment, has served as a precursor for modern child welfare practices.

The efforts of the Children’s Aid Society gave rise to the child-saving movement in the United States. This movement helped to spawn some distinct ideological beliefs that continue to hold sway over modern practices. One belief underlying the child-saving movement is that there is a clear distinction between adulthood and childhood and that the rights, responsibilities, and privileges of each differ accordingly. Liberalism and personal responsibility are concepts that dictate the actions of adults, whereas children are viewed as passively dependent. Thus, there is a somewhat dissonant ideological substructure within child welfare system. On one hand it is acknowledged that adults are individually responsible for their own well-being and that of their children, and on the other hand, the welfare of children is viewed as a collective responsibility. Paternalism is a by-product of these ideological beliefs (Carney, 1999).

From a child-saving perspective, children are reliant on their parents for care and a failure on behalf of parents to provide adequate care is indicative of personal deficits. Accordingly, society has a moral responsibility to intercede on behalf of endangered children. Failed parents, therefore, relinquish their parenting rights to society and the state. This paternalistic approach has proven to be particularly problematic for the protection of children and preservation of families.
Few could argue against the virtue and practical necessity of protecting children from deleterious circumstances, but the odd coupling of paternalism with liberalism has created an ideological dilemma where the functions of child protection are not analogous to the provision of social welfare benefits. The unfortunate consequence of this approach is that policies regarding child protection are oftentimes detached from the issues of child welfare and more generally, social welfare. Moreover, as the child welfare system has become increasingly centralized and bureaucratized, these inconsistencies have become increasingly pronounced.

The Formalization of Child Protection in the United States

The case of Mary Ellen, in 1874, was the first instance of child abuse that garnered significant public attention and led to an expansion of the focus of child welfare from the prevention of delinquency to also protecting children from cruelty at the hands of their caretakers. Although there were prior incidents of child abuse that had been prosecuted in the courts, Mary Ellen's case galvanized the public's focus on child abuse (Ventrell, 1998). Mary Ellen was a 10-year-old girl found to have been badly abused by the foster parents to whom she had been indentured. Etta Angell Wheeler, a charity worker, learned of Mary Ellen’s condition while conducting visits among New York City’s poor. Wheeler’s discovery prompted her to seek intervention from the police and charitable agencies to no avail. Ultimately, Wheeler turned to the director of the New York Society for the Prevention of Cruelty to Animals (NYSPCA) for assistance. After learning the circumstances of the case, the director of the NYSPCA, Henry Bergh, dispatched an investigator who obtained a warrant to forcibly remove Mary Ellen from her home. Subsequently, Mary Ellen was removed from the custody of her foster parents.
and legally placed in Wheeler's care, where she remained for the rest of her life (Watkins, 1990).

The public outcry over Mary Ellen's case is attributed with prompting the creation of the New York Society for the Prevention of Cruelty to Children (NY-SPCC), which eventually gained policing powers and became a model for modern child protective services (Ventrell, 1998). Within a relatively short time, protective societies were established throughout the country. By 1900, 161 similar cruelty societies were established (Ventrell, 1998) and by 1910, more than 200 societies existed in the United States (Costin, 1992). The national attention stimulated by Mary Ellen's case and the subsequent proliferation of protective societies marked the beginning of a national response to child abuse.

Early cases such as Mary Ellen's, and others of the time, are credited with establishing the legal doctrine of parens patriae in the United States. The development of parens patriae, which means ultimate parent or parent of the country, was a significant event in child protection. This doctrine asserts the state's authority to intervene into the parent–child relationship for the good of the child (Ventrell, 1992) and is a cornerstone of modern child protection. This doctrine embodies the moral obligation of the state to intervene on behalf of abused and neglected children and provides the legal basis from which to do so. The emergence of the doctrine of parens patriae combined with the formalization and expansion of the child welfare system has contributed to the state supplanting kinship networks as self-regulating and self-correcting social institutions. The role of the state as the ultimate parent of abused and neglected children has been codified through legislative and administrative initiatives.
Bureaucratization of Child Protection.

The political formalization of the child welfare system in the United States, which was prompted by the convening of the White House Conferences in 1909, began with legislation in 1912 that established the United States Children's Bureau (Costin, 1992). Subsequent conferences in 1919 and 1930 were attributed with further expanding the role of the federal government in the child welfare arena. "The keynote was the preservation of the home and the caring of children in the home.” (Young, 1935 p. 187). With this as the premise of early White House Conferences, establishing adequate legislation for health, education, economic security, and a general program of prevention was necessary (Young, 1935 p. 190).

In pursuit of the goals developed by the White House Conferences, Congress enacted Aid to Dependent Children (ADC) in 1935. This legislation provided cash assistance to single poor mothers as a matter of right, authorized grants to states that encouraged professional training for child welfare workers, and supported demonstrations of novel practices (Schorr, 2000). These early years of the child welfare system in the United States enjoyed a relatively prosperous and productive existence, but the issue of child abuse was subordinate to the more general issue of child welfare, as the impetus of ADC rested in economic instabilities associated with the Great Depression. It was not until the later half of the 20th century that child abuse emerged as a prominent issue in child welfare policy.

Prompted by the publication of a paper describing the "battered child syndrome," a common recognition of the problem of child abuse began to emerge in the United States (Kempe, Silverman, Brandt, Steele, Droegemueller and Silver, 1962). What followed
was the rapid passage of legislation at the state and federal levels, designed to create mandatory reporting and response mechanisms for instances of child abuse. By 1967, every state had enacted mandatory reporting laws (Peled & Kurtz, 1994). At the federal level, Congress passed Child Abuse Prevention and Treatment Act (CAPTA) in 1974, which served as a model for state legislation and acted as an impetus for the legalization and bureaucratization of child welfare services in America. Prior to this legislation, the child welfare arena was a small, relatively self-contained service system with few resources and minimal federal oversight (McGowen & Walsh, 2000). Subsequent to the passage of CAPTA, the child welfare system has grown into a highly bureaucratic social service system requiring billions of dollars to maintain while being of somewhat questionable value to the well-being of families and children (Schorr, 2000).

The centralization of child protection brought about by federal statute has contributed to the internal inconsistency of child welfare policy and practice. The dual purpose and somewhat contradictory goals of the child protection apparatus is a perennial source of conflict within child welfare circles. In an early introductory social work text, Arthur Fink (1942), described the opposing schools of thought. The first is the belief that individuals responsible for child abuse should be hauled into court, fined, and imprisoned. The second conceives that the role of child protection agencies is to help rather than punish. According to the second approach, prosecution is viewed as a failure to help a family and is used only as a last resort. This response to child abuse relies on prevention rather than castigation and is based upon the assumption that there is community, as well as, individual factors that are responsible for child abuse in most instances (Fink, 1942).
This diametrical approach towards child protection has been an ever-present feature in child protective services and dates back to the rift between the New York SPCC, which represented the "coercive reformist," and the Massachusetts SPCC, which represented the "assimilative reformist" in the late 19th century (Fink, 1942). The NYSPCC, under the leadership of Eldridge Gerry, approached child protection from a retributive orientation relying on legalistic interventions to assure the protection of abused and neglected children. Its approach was a marked contrast to that of the Massachusetts SPCC that relied on preventative measures and community support programs to maintain children in their homes. With the passage of the Child Abuse Prevention and Treatment Act in 1974, these competing approaches to child welfare practice have become blended into a single system.

This approach towards child protection has led to systemic inefficiency (Costin, 1992), and the ideological differences are as prevalent today as they were a hundred years ago, although no longer fragmented simply by geographic location or agency philosophy. These seemingly incompatible ideologies have come to exist within an otherwise unified agent of the state—the child protection system. Although the ultimate goal of both models of child protection is to ensure the safety of children, the means by which to do so are not clearly conceived. The result is a perceived capriciousness in the actions and inaction of child protection agencies. The somewhat arbitrary approach towards child protection has left the child welfare system open to criticisms that racism and classism underlie the treatment of abusive families. As I will discuss later, these criticisms do not appear to be entirely without basis. Also, whether real or imagined, the perception of
bias and arbitrariness on behalf of the public towards child protection agencies seriously undermines the credibility and effectiveness of those agencies.

Child protective agencies are caught in the unenviable position of having to achieve what are at times, the irreconcilable objectives of saving children while simultaneously respecting the integrity and autonomy of families under their care. This is a charter that, if not integrated in a deliberate and reflective manner, can lead to what Markham (1980, p. 180) described as a "directional crisis." This term describes the tendency for child protection agencies to be criticized as being both too aggressive and too lackadaisical in carrying out their duties. To illustrate this dynamic, Markham cited an instance where lawsuits were filed against a child protection agency in Massachusetts simultaneously making disparate allegations—one claimed that the agency’s aggressive practices were violating families rights to autonomy, and the other claimed the agency’s inaction had led it fail to adequately protect children. In this instance, the state found itself in a very literal "no-win-situation."

Inconsistent ideology is an inherent aspect of American child welfare policy, which is reinforced by the implicit social sanctioning of corporal punishment as a parental right, while at the same time having moral and statutory prohibitions against harming children. Consequently, the courts and child protective agencies must balance the rights of families to be autonomous with the need to act in the best interest of children. This dilemma may, in part, be responsible for erratic shifts in child welfare policy throughout the latter half of the 20th century. Within these shifts the safety of the child and the integrity of the family have struggled for prominence in our response to child abuse.
In addition to consolidating discordant ideologies, another somewhat dubious contribution of the centralization of child welfare vis-à-vis CAPTA was the national definition of child abuse created by the legislation. According to CAPTA, “child abuse and neglect means the physical and mental injury, sexual abuse, negligent treatment, or maltreatment of any child under the age of eighteen by a person who is responsible for the child's welfare under circumstances which indicate the child's health or welfare is harmed or threatened thereby…” (PL 93-247, 1973 section 2).

The language used to define child abuse in CAPTA was intentionally vague in order to relieve states from hardships created by defining child abuse in a way that would be too inclusive (Newberger, 1983). The child abuse definition created by CAPTA has been criticized both for its vagueness and for polarizing Congress over the issue of how to define child abuse (Peled & Kurtz, 1994).

Despite congressional efforts to build flexibility into this legislation, unforeseen social and political events have spawned a system of child protection that has become unwieldy. The prevalence of child abuse in the United States was grossly underestimated at the time CAPTA was passed and consequently, the surge in child abuse reports that accompanied its passage has overwhelmed a child welfare system not designed for either the prevalence or acuity of cases being reported (Newberger, 1983).

Early incidence studies supported the notion that child abuse was an anomaly. For instance, Gil (1969) conducted one of the first epidemiological studies of child abuse, which revealed that 5,993 children were reported for physical abuse throughout the United States in 1967. Prior to passage of CAPTA, no one would have predicted that in the United States in 1997 almost 3.2 million reports of child maltreatment would be made.
Achieving Procedural Justice with FGC

to child protective service agencies (Leventhal, 1999). The ideological dilemmas and underestimation of the scope of child abuse in the United States has spawned a fiscal substructure that reinforces the inertia of the system.

_Fiscal Discontinuities_

Predictably, the explosive growth of child abuse reports over recent decades has been accompanied by an exponential growth in public funding for child protection. Also, it is somewhat predictable that in light of the historically heavy reliance on out-of-home placements as an expedient means of assuring children's safety, much of the growth in child welfare expenditures has been towards funding out-of-home care.

Financially, the costs associated with child abuse are staggering. Drawing on data from a variety of sources including the U.S. Department of Health and Human Services, the U.S. Census, and the results of the Third National Incidence Study (NIS-3), Fromm (2001) estimated the cost of child abuse exceeded $94 billion a per year. This figure includes direct costs ($24.3 billion) such as health care, legal costs, and social services, and indirect costs ($69.7 billion), which include special education, juvenile and adult criminal behavior, and lost productivity. Although any estimate of the financial impact of child abuse, particularly an estimate that attempts to calculate the indirect cost, is a rough estimate at best, the figures presented by Fromm (2001) are disconcerting nonetheless.

To meet these costs, funding for child protection has been expanded under several initiatives including the creation and expansion of federal funds through Title IV-B and the creation of Title IV-E funding of the Social Security Act. Title IV-E is an open-ended entitlement that allows states to claim unlimited reimbursement for providing
foster care to eligible children. Title IV-B was established to provide other child welfare services including funding for prevention and research initiatives. These funds constitute the principal underpinning for the child protection system and are a direct expression of our society's obligation to preserve families and protect children (Wulczyn, 2000). However, existing fiscal structures are not entirely consistent with current policy objectives, which is evident from the disproportionate growth of Title IV-E funds over Title IV-B funds.

Between 1983 and 1996, federal Title IV-E expanded six fold, while Title IV-B funds tripled (Wulczyn, 2000). In 1996 federal expenditures under Title IV-B were $442 million while federal expenditures under Title IV-E were an astounding $3.9 billion (Brooks & Webster, 1999). This, according to Altstein & McRoy, (2000, p. 116), has led to an allocation of $10,000 per year per child in foster care versus an allocation of $3,000 to $5,000 per year per child for family preservation programs.

Fiscal policy creates inflexibility for the Title IV-E program, which limits the government's role in community-based services, thus fostering a federal fiscal policy that is incongruent with federal social policy (Wulczyn, 2000). Public policy purports to favor the preservation and reunification of families (or adoption); however, the structural link to federal revenue through claims for foster care, paid on a per diem basis, is at odds with public policy (Wulczyn, 2000). Under the existing funding structure, reductions in the utilization of foster care result in less revenue for the system (Wulczyn, 2000). The restriction against moving Title V-E funds into Title IV-B services exemplifies the inflexibility of existing funding structures and helps to explain the slow pace of progress in moving into community-based preventative services (Wulczyn, 2000).
Restrictive fiscal policies greatly hinder the effectiveness of the child welfare system, which presupposes a philosophy that all children are entitled to a safe and permanent home. However, the means of achieving safety and permanency are limited. In the executive summary to the Evaluation of Family Preservation and Reunification Services, sponsored by the United States Department of Human Services (2002), the disconnection between the demands made by federal policies such as the Adoption Assistance and Safe Families Act (ASFA) and the resources to help families was described as a paradox. The summary points out that “workers continue to face overwhelming troubles of children and families entering the foster care system without any new or improved ways to deal with the problems of these families, despite the need to either reunify families or find other permanent living arrangements for children more quickly.” (U.S. Department of Human Services, 2002, p. 6).

In general, the supply of intervention services for abusive families tends to fall short of meeting the demands for those services. In an analysis of intervention trends among CPS cases in Miami, Crittenden (1992) found that among the 281 families studied, less than 50% were receiving services within six weeks of court mandate. Disturbingly, the low treatment rate found by Crittenden tended to be a consequence of systemic faults rather than client noncompliance. Thirty-three percent of those cases not receiving services were because CPS staff had not had time to make referrals, 38% were wait listed for services, and only 29% were due to noncompliance (Crittenden, 1992).

Unfortunately, some of the most pressing needs seem to suffer from shortages in resources. For example, in a survey of state child protective agencies (N=11) the Child Welfare League of America (CWLA, 1999) found that although 67% of their parent
clients needed treatment for chemical dependency, agencies were only able to accommodate 31% of these parents. Others have noted that services, when available, are commonly not congruent with the needs of clients (Faver, Crawford, Combs-Orme, 1999; Kolko, Selelyo, Brown, 1999).

Limitations of Current Child Protection

The preceding discussion traces the evolution of current child welfare ideology and practices and also illustrates some of the structural and ideological conflicts within the child welfare system. These conflicts have created a system of child protection that can be characterized by ambiguities in two key areas. First, there is ambiguity about what behaviors constitute abuse. Second, there is ambiguity about what should be done to prevent and correct abusive behaviors. Also, the ambiguity surrounding what should be done to help abusive families occurs within a context of limited resources and a fiscal structure that seems to strongly favor one kind of intervention—out-of-home placements. These uncertainties have led to a system that is constantly challenged and characterized by wide swings in both policies and practices aimed at ameliorating child abuse.

The limitations of the present-day child welfare system have led some scholars to suggest that radical changes need to be implemented before meaningful progress can be achieved. For instance, Pelton (1991) has suggested that the investigative and coercive functions of child protection be placed under the auspices of the police rather than the child welfare system. According to Pelton’s proposal, only the most serious cases of abuse would be elevated to coercive intervention, while less serious cases would be encouraged to accept services voluntarily.
Similarly, others have suggested that mandatory reporting laws need to be reconsidered and differential reporting and intervention strategies be developed to respond to allegations of abuse according to their severity (Delaronde, King, Bendel, & Reece, 2000; Newberger, 1983). Although these kinds of proposals may begin to bridge some of the divides in existing child welfare practice and policy, they are not sufficient to instigate major ideological changes.

*Structural vs. Systemic Reform*

At first glance, these reforms may seem to reflect radical departures from the status quo, but in reality, they are not. These kinds of solutions are, at their core, structural changes as opposed to ideological changes. Advocating for differential response systems to child abuse based on severity simply fragments a child welfare system much in need of greater unity, while leaving the ideological foundations intact.

Such approaches may actually lead to increased social control by the state. Harris (1998) argues that when a response system is bifurcated according to the severity of offenses, it increases both the size of the bureaucratic infrastructure needed to respond to an issue and the scope of control exercised by that system. Harris (1998) also suggests that bifurcated systems are more resistant to change because responses to minor infractions of social norms are generally noninvasive and, therefore, do not elicit much scrutiny from the public. On the other hand, reserving official child protection services for only those who have seriously violated social standards makes it more difficult to challenge the system, from which less serious offenders have been removed, because only the most contemptible offenders remain in the formal system.
Reforms that are superimposed on a child protection system in which the structure is inherently flawed are likely to fail (Pelton, 1991). Thus, any meaningful reform of the child protection system requires a deliberate restructuring of the ideological and structural framework of the existing system. Contrary to Altstein & McRoy’s (2002, p. 131) plea to “...put ideology and politics aside and look clearly at the nation’s child welfare system,” a meaningful reform of the child welfare system in the United States requires an honest reflection on the ideological and political underpinnings of that system. Practice or policy remedies for the child welfare and protection system are more likely to succeed if underpinned by a reflexive awareness the system’s underlying tensions (Sharland, 1999).

Whether it is law enforcement or child protection agencies that handle the investigative functions of child protection, or if reporting standards are adjusted to respond differentially to allegations of child abuse, the child protection system remains principally reliant on the state’s powers to develop and enforce child abuse interventions. The ultimate outcome of such approaches does not markedly deviate from existing practices in that they continue to restrict families’ rights to autonomy and accompanying responsibilities for self-correction, a condition described by Adams (2000, p. 105) as “neostatism.”

A neostatist approach to child protection can only achieve success to the extent that those being regulated recognize the agency’s authority as legitimate. “Legitimacy is a property of an authority or institution that leads people to feel that that authority or institution is entitled to be deferred to and obeyed.” (Tyler, 2003, p. 514). Absent that recognition, an agency must rely on coercive means to impose its will.
The need for legitimization presents special challenges to the child protection system, which has derived much of its powers without the active participation of those most affected by it and operates in ambiguous legal terrain falling somewhere between a law enforcement agency and a welfare agency. Consequently, the state’s involvement with families is often viewed as coercive and inappropriately intrusive, which severely limits the state’s potential for instigating meaningful change and achieving justice. In his conclusion to a year-long ethnographic study of child protection workers in Chicago, McMahon (1998, p. 99) concluded,

The study found that the current practice of child welfare harms clients as much as it helps them. This harm comes about despite the work, sincerity, and dedication of child welfare workers and the (voluntary and involuntary) cooperation of the children and families who are child welfare’s clients. It comes about because the ideology of child-saving coupled with the homogenizing use of bureaucratic routinization and the huge numbers of cases erases the personal in its quest for total efficiency.

Although the particular shape and scope that reforms in the child welfare system should take is subject to debate, it seems rather apparent that some kind of systemic reform is needed. However, for any reforms to have a sustainable effect on the child welfare system, they must be inspired by an ideological shift that resolves the structural inconsistencies, moral ambiguities, and social inequalities that are so characteristic of our present child protection system.
There is little doubt that among those working in the field of child welfare, protecting children from the damages of abuse and neglect is of paramount concern. Yet, in our zeal to save children the issue of justice is often overlooked (Sharland, 1999). What then constitutes justice for the children and families served by child protective agencies? Justice, according to Webster’s Dictionary, is “the principle or ideal of moral rightness: Equity.” According to this broad definition, two preconditions must exist before justice can be achieved. First, for justice to prevail, a commonly accepted notion of what constitutes moral rightness must exist. Second, the social response to one’s adherence to, or departure from, those moral standards must be applied equally to each member of that society.

In those exceptional instances where there is a unitary standard for what is morally right and there also exists a socially sanctioned response to infractions of that moral standard, justice may be achieved rather efficiently. Furthermore, in situations where there is little ambiguity regarding moral rightness and the appropriate societal responses to moral wrongdoing, autocratic procedures are more likely to be an acceptable means of resolving disputes (Thibaut & Walker, 1975). Autocratic procedures are those where a decision-making party has complete control over the presentation of evidence and the final decision (Heuer & Penron, 1986). Therefore, egregious cases of abuse may be better suited to autocratic decision-making processes; however, such cases are rare and the exception rather than the rule in child protection.

It is quite common for caregivers to use physical force against their children, but the use of severe force is relatively uncommon. In their survey of 1,428 households,
Straus and Gelles (1986) found that 73% of respondents reported using violence in their child rearing at some point in the past. Approximately 3% of respondents acknowledged using extreme forms of violence against their children, such as punching, kicking, biting, or threatening with a weapon. In a society that so routinely uses physical force in its child rearing, it is likely that there will be a good deal of ambiguity as to what degree of physical harm constitutes abuse. Similarly, in a society that treasures individual autonomy, achieving consensus regarding what constitutes neglect is also problematic.

In most instances, the field of child protection enjoys neither a clear standard for the classification of abusive behavior nor a common societal response to those cases where child abuse has been alleged. With regard to child abuse, the necessary ingredients for achieving justice are highly tenuous. Achieving justice in cases of child abuse through autocratic means is severely hindered by two aspects of the problem—moral ambiguity and social inequities.

**Moral Ambiguity**

The first issue, moral ambiguity, involves the lack of a clearly defined and commonly accepted standard for what constitutes acceptable childrearing practices in our society. Defining abuse has been an elusive goal within the child welfare community for many years. “Despite vigorous debate of the last two decades, little progress has been made in constructing clear, reliable, valid, and useful definitions of child abuse and neglect.” (Panel on Research on Child Abuse and Neglect, 1993, p. 5). There are profound implications related to the definitional problems in this field.
Definitional Issues

A very expansive definition of child abuse can lead to the dilution of child welfare resources, because the demand created by its inclusiveness outpaces the resources dedicated to ameliorating the problem. Moreover, broad definitions are accompanied with greater classificatory ambiguity. Conversely, definitions that are too circumscribed may preclude the inclusion of contextual factors.

Unlike many other social and medical conditions, which have an established nosology, child abuse definitions tend to be influenced by the ideological and theoretical beliefs of the academicians and policy makers addressing the issue. The variations in ideological and theoretical material relating to child abuse are plainly reflected in the number of definitions proposed by various authors. In what follows I will provide an overview and critique of some of the definitions of child abuse posited by a various child welfare scholars. In so doing I hope to attune the reader to the difficulty of achieving justice in response to such an amorphous social problem as child abuse.

Medical Definition of Physical Abuse.

C. Henry Kempe is credited with promulgating a diagnostic definition of child abuse. In their seminal paper, “The Battered Child Syndrome,” Kempe, et al. (1962) described the battered child syndrome as a clinical condition indicative of child physical abuse. This syndrome is evidenced by a fracture of any bone, subdural hematoma, failure to thrive, soft tissue swelling, skin bruising, sudden death, or where the degree or type of injury is at variance with the history regarding the injury (Kempe et al., 1962).

Defining child abuse as a clinical condition that is predicated on the presence of physical evidence allows child abuse to be placed in a discrete category. However,
because of its limited scope, it does not allow for the recognition of other kinds of abuse, nor does it address threatened harm. The evidence of neglect or emotional abuse, may not be readily apparent, or may not be immediately manifested.

There has been a good deal of controversy surrounding the "medicalization" of child abuse. Gelles (1992) noted that because the medical profession initially brought the phenomenon to public attention, socioeconomic factors tended to be overlooked by child abuse researchers. Similarly, Newberger (1983) noted that attaching a medical diagnosis to child abuse has fostered a philosophy towards child abuse that implies an infusion of professional goodwill will cure the problem.

Sociological Definition of Child Physical Abuse.

David Gil (1975) proposed an extremely broad definition of child abuse. According to Gil (1975, p.346), child abuse constitutes “…any inflicted gap or deficit between circumstances of living which would facilitate the optimal development of children, to which they should be entitled, and their actual circumstances, irrespective of the sources of agents or the deficit.” This definition spreads the responsibility for child abuse well beyond the immediate parent-child dyad. As Garbarino (1977, p.722) points out, “The broader the definition of abuse, the more clear is its relation to ‘normal’ caregivers and their behavior with children, and the more serious ‘indictment’ against society and its institutions.” Garbarino’s observation provides an apt description for the views espoused by Gil and other critical theorists. According to Gil (1975), child abuse is perpetrated at every level of society: individual, institutional, and societal. Each level shares in responsibility for actions that hinder children’s inherent potential.
Gil describes a criterion that allows for the classification of child abuse, which is interference with optimal development; however, his definition of child abuse suffers from a lack of clarity regarding the phenomenon. First, it assumes that the optimal development of a given child can be known. It is difficult to classify incidence of child abuse using this definition because optimal development is a construct that is itself subject to a variety of interpretations. Second, Gil’s definition does not address intent. It is conceivable that well-intended actions towards children may have deleterious effects on them despite good intentions. According to this definition, these actions would be abusive. As Gil (1975) points out, corporal punishment may be a means of preparing a child for adult roles in a non-egalitarian, competitive society. In this instance, the use of physical force may serve to help a child achieve optimal development in light of the social order. In the case of child physical abuse, according to Gil’s definition, an act that causes discernable physical injury, may or may not be construed as child abuse. If the injuries do not interfere with a child’s optimal development, abuse has not occurred, despite the presence of physical injury. Accordingly, where physical force is used against a child, classification of an act is dependent on demonstrating interference in a child’s optimal development, regardless of the intent of the act, or extent of injuries.

Elsewhere, Gil (1970, p. 6) has defined physical abuse as “the intentional, non-accidental use of force on the part of the parent or other caretaker interacting with a child in his care aimed at hurting, injuring or destroying that child.” In this definition, Gil (1970) establishes a means of classifying abuse that is missing in his global definition of abuse. In this case, it is the intent of the act that is the source for classification of abusive behavior. It does not account for the actual outcome of the behavior. According to this
second definition presented by Gil, abusive acts can range from a slap on the wrist to a fatal beating, because the only matter of consideration is intent to do harm, which encompasses all manner of physical aggression on behalf of a caretaker.

The radically different definitions Gil uses to describe a single phenomenon (child abuse) reveal how instrumental they can be. The first definition Gil (1975) prepared for congressional testimony on child abuse. The second definition was developed to operationalize abuse for a national incidence study on child abuse (Gil, 1970). One can conclude that child abuse may be defined in such a way as to serve a specific function and may be tailored for a particular audience. Although this practice may be useful for accomplishing specific tasks, it does little to enhance conceptual clarity.

Ecological Definition of Abuse.

Garbarino (1977) defines child abuse in terms of care-giving competence, where child maltreatment is incompetence in the role of care giving. This definition depends on culturally defined standards for what care giving behaviors do not meet expectations, be it excessive use of force, or inadequate provision of nurturance. As Gabarino (1977) points out, when child abuse is viewed as a point along a continuum of child-caregiver relations that differs only quantitatively from non-abusive behaviors, child abuse is merely a part of a more general phenomenon: child maltreatment. Here the emphasis is on identifying the appropriate role of caregivers and how adaptation occurs. Accordingly, what constitutes child abuse may differ according to cultural norms and mores, which complicates the categorization of abusive behavior, because such classifications are relative to patterns of behavior that vary according to culture.
Legal Definition of Abuse

According to (P.L. 93-247) Child Abuse Prevention and Treatment Act (CAPTA), "...child abuse and neglect means the physical and mental injury, sexual abuse, negligent treatment, or maltreatment of any child under the age of eighteen by a person who is responsible for the child's welfare under circumstances which indicate the child's health or welfare is harmed or threatened thereby ..." (PL 93-247, section 2). The legal definition of child abuse enjoys a degree of specificity lacking in the others previously described. It acknowledges and differentiates types of abuse, specifies the nature of the relationship between a caretaker and child, and establishes specific age related criteria for inclusion - under the age of 18. However, like the other definitions previously cited, the standard for which harm is determined is subject to some interpretation. Damage to a child's health is relatively easy to identify; however, a threatened harm can be construed in many ways. Depending on ones ideological beliefs as to what are considered appropriate child rearing practices, what constitutes abusive behavior may vary considerably.

In summary, there is currently no unitary definition of child abuse which is a deficit that seriously confounds our ability to study the problem and establish effective policies and interventions aimed at ameliorating child abuse. One should be cognizant of the deficits inherent in a field of study lacking a coherent taxonomy. The operationalization of the construct, child abuse, is subject to wide variation based on ideological and functional influences. The consequences of these definitional ambiguities are manifested in a number of ways, but are particularly relevant in determining when and how society responds to child abuse and neglect. In those cases
where child abuse is clearly evident and the consequences to a child are severe, achieving consensus may be somewhat easy. However, when abuse and neglect are not as evident, the state must make some difficult decisions.

**Social Equity**

A second barrier to achieving justice using an autocratic, neostatist response to child abuse concerns social status and the distribution of power between the state and the families it seeks to regulate. Social psychologists have demonstrated that investments in the form of discrepancies in status are important in the allocation of rewards (White, 1974). When one is accorded a higher status than others in a social exchange, he or she will typically demand greater rewards. In the case of child welfare, the recipients of services typically occupy lower social strata than do those representing the state (Hampton & Newberger, 1985; Barsky, 1996). Hence, families are afforded less power and fewer opportunities to exert control over the decision-making process.

This dynamic may be even more salient when the social distance between worker and client is based on more than simply economic factors. When the social distance between provider and client are furthered by racial, ethnic, or educational differences, the biasing effects of social class may become even more pronounced and difficult to disentangle.

**Race and Class**

Inordinate numbers of poor and ethnic minority families are involved in child protection. Statistics compiled by Child Welfare League of America (1999) illustrate the disproportionate number of ethnic minorities involved in the child protection system. In 1996 African American children comprised 14.4% of the population in the United States,
yet they accounted for 27% of all children substantiated as abused or neglected (CWLA, 1999). Similarly, Native Hawaiians tend to be vastly overrepresented in the child protection system. According to the U.S. Census (2002), people with Native Hawaiian ancestry comprise 23% of Hawaii’s population, but according to Hawaii’s Department of Human Services (2001), 42% of Hawaii’s child abuse and neglect cases involve families of Native Hawaiian ancestry. Moreover, there are numerous examples in the child abuse literature that suggest that the differences between child welfare workers and those they serve may be a source of institutional bias (Hampton and Newberger, 1985; Beeman & Boisen, 1999; Lindsey, 1991).

The Third National Incidence Study of Child Abuse and Neglect (NIS-3) revealed that poverty is very commonly associated with abuse (Sedlack & Broadhurst, 1996). The National Incidence Studies were congressionally-mandated efforts to study child abuse trends in the United States. Using a nationally representative sample of 842 agencies serving 42 counties, the NIS-3 used two standardized definitions of abuse and neglect. The first, “Harm Standard”, included those children who had already experienced harm from neglect or abuse. The second, “Endangerment Standard”, included children meeting the Harm Standard and children that experienced abuse or neglect that put them at risk of being harmed. Data were gathered for the years 1993 and 1994 from 5,600 professionals.

In their executive summary of the NIS-3, Sedlack and Broadhurst (1996) reported that when families whose incomes exceeded $30,000 were compared with families whose incomes fell below $15,000, the children of poorer families were 22 times more likely to experience maltreatment. Dispelling the notion that income is an artifact of the selective observation of low-income families, the authors point out that to equalize
the incidence rates across income groups, nearly seven percent of the children in America would have to have been maltreated without detection, which is a very unlikely proposition. These findings, among others, suggest that family income is a legitimate difference between abusive and non-abusive families (Drake, & Pandey, 1996; Cadzow, Armstrong, & Fraser, 1999; Kotch et al., 1999; Gelles, 1989; Gelles, 1992; Sedlack & Broadhurst, 1996).

Sedlack and Broadhurst (1996) found that after controlling for income, there were no significant ethnic differences in maltreatment incidents. These findings reiterated those of the NIS-1 and NIS-2, indicating a pattern of ethnic disadvantage (Sedlak & Broadhurst, 1996). These findings support Garbarino and Ebata’s (1983) argument that, with regard to child abuse, class confounds the role of ethnicity.

In a study of child abuse-reporting behavior in medical settings, Hampton and Newberger (1985) compared data gathered in the 2nd National Incidence Study and corresponding child protection agency records. They found that medical personnel were more likely to report young, black parents for abuse and tended to under-report white parents for similar kinds of incidents. These findings suggest a bias at the point of identification, which then affects substantiation rates. A case that is never reported will, by definition, not be substantiated, so the overrepresentation of ethnic minorities may in part be a function of identification bias (Hampton & Newberger, 1985). Attempting to explain this bias, Hampton & Newberger speculate that the social distance between medical professionals and those suspected of child abuse influences the interactions between these two groups, where the greater the social distance, the less likely it is that medical professionals will identify and report abusive behaviors.
These findings suggest that among the predominant ethnic minority groups in the United States, there are no inherent differences in abusive potential. Differences in the prevalence of abuse among ethnic minority groups is likely to be influenced by a variety of external circumstances such as poverty, environmental stressors, reporter and investigative biases or other factors. It is quite possible that the public perception that ethnic minorities are more likely to abuse their children is confused with the tendency for socioeconomic status to be highly correlated with abusive behavior (Lindsey, 1991).

There is ample evidence that class and ethnic background may not only influence who enters the child protection system, but also how they are treated within the system. The number of poor children who have been removed from their homes has always been quite high. Lindsey (1991) found that among preschoolers, elementary school children, early teens, and late teens, family income was the single best predictor of whether a child was placed in foster care or kept in his or her home with supportive services. Related to income was the finding that most foster care placements involved children living in single-parent households. Not only do race and class predict which families will enter the child welfare system and which children will be remanded to state custody, these characteristics also seem to determine how families and children will be perceived and treated within the system.

Using a sample of 458 adoption-eligible children, Kemp & Bodonyi (2000) determined that the median time in temporary foster care was 47.5 months for infants younger than one year of age and 53.2 months for children older than one. They also determined that African American and Native American children stayed in foster care for significantly longer periods of time than white children (Kemp & Bodonyi, 2000). These
findings highlight an inherent inequality in the child welfare system, where children of color are consistently disadvantaged.

In a study regarding child welfare professionals’ attitudes and beliefs about kinship care, Beeman & Boisen (1999) found that Caucasian child welfare workers were more likely than their African American counterparts to view kinship providers as resistant and difficult to supervise. These findings prompted Beeman and Boisen to speculate that cultural and social differences between child welfare professionals and their clients, may be a source of bias and misunderstanding.

Achieving Justice in Child Protection

The preceding discussion illustrates two aspects of child welfare practice that seriously undermine its potential for achieving social justice. First, the absence of a unitary definition for child abuse precludes the development of a universally accepted, moral standard for appropriate child rearing behavior. With the exception of only the most egregious examples of child maltreatment, what specifically constitutes child abuse is often subject to considerable debate; therefore, in many instances, moral standards must be negotiated between disputants to derive a moral standard that is acceptable.

Second, a formal response to child abuse that is compromised by systemic biases and imbalances in power is likely to be viewed as unjust by many and resisted accordingly. Therefore, just as the classification of child abuse must often be negotiated to resolve ambiguity, the formal response to child abuse must also be negotiated in a manner that neutralizes the effects of bias by restoring power to disadvantaged parties.

The concept of negotiated exchange is drawn from social exchange theory (Homans, 1974; Blau, 1964; Thibaut and Kelley, 1967; Molm, 1997). According to
social exchange theory, negotiated exchanges entail a consensual determination of the exchange of rewards between two or more parties (Lawler & Thye, 1999). Whereas, with reciprocal exchanges, the nature of rewards is socially determined, yet are not explicitly identified by the exchange parties. Negotiated exchanges also differ from coercive exchanges, which are a type of exchange process commonly employed in formal child protection. “In coercive exchanges one actor provides rewards to another in exchange for the other’s withholding of expected punishment” (Molm, 1997, p. 116).

The experimental work of Thibaut and Walker (1975, p. 15) supports the appropriateness of negotiated exchanges in child protection. In their seminal work examining procedural preference, Thibaut and Walker (1975) determined that in instances where objective standards are not apparent, disputants must use consensus as a surrogate for objective standards. Furthermore, Thibaut and Walker argue that in these negotiated exchanges, the principal disputants must maintain primary control over the process.

Other research has suggested that negotiated exchanges are more likely to yield successful outcomes than reciprocal exchanges. With regard to negotiated exchanges, partnership is more relevant and the sense of common activity therefore stronger. Second, actors in negotiated exchange are more likely to perceive a shared responsibility for the outcomes. The result is that the cohesion effects of successful exchange (i.e. outcomes) should be stronger for negotiated exchanges than reciprocal exchanges (Lawler & Thye, 1999). The outcomes of negotiated exchanges are even more successful when there is an equal balance of power between the negotiating partners (Mannix & Neale, 1993).
When exchanges between child protection agencies and families are not negotiated, but rather rely on *a priori* outcomes determined by the state, power rests almost exclusively with the state. In these instances, the state defines abusive behavior and establishes protective and remedial measures with little input from the family itself. Consequently, the state’s efforts are likely to be viewed as coercive and may be resisted by the families they are intended to help.

“Subjugation by coercive force can hardly be experienced as just, for it offers no compensating advantages for submission; hence, coercion is virtually always resisted” (Blau, 1964, p. 228). Resistance is a means by which parents attempt to equalize the distribution of power in their transactions with the child protection system. In a qualitative study of child protection, Buckley (2000) noted that “… despite their perceived powerlessness, parents could be extremely effective in both controlling the level and quality of intervention, and ultimately in terminating contact altogether, irrespective of the progress made, or the existing situation with regard to the protection and welfare of the children.” Blau (1964) argues that when the experience of oppression is severe, revenge becomes an end in itself, and will be pursued without regard to personal welfare. Molm, (1988, 1989, 1990) has repeatedly demonstrated that coercive power is virtually ineffectual at achieving advantages in social exchanges. This phenomenon may help to explain why, despite the threat of permanently losing custody of their children so many parents are compelled to repeatedly abuse them.

Approximately 30% of children re-enter foster care after having been previously removed (Wells & Guo, 1999). Disturbingly, an analysis of data from 49 states covering a three-year span revealed that nearly half of child abuse fatalities occurred during or
subsequent to state intervention (Wang & Daro, 1997). Even more striking are findings that suggest that poverty appears to precipitate the reoccurrence of abuse. In an analysis of child maltreatment recidivism trends, Way et al. (2001) found that after controlling for ethnicity and gender, for each added increment of $1,000 in neighborhood mean income, the risk of recidivism decreased by 1 to 3%. The linear relationship between socioeconomic status and the propensity to re-abuse one’s children suggest that coercive intervention is even less effective among those occupying lower social positions.

The inherent ambiguities of child protection strongly suggest that an autocratic approach towards child protection may be sorely misguided. Given the amorphous nature of the problem and potential for bias, the benefits of collaboratively-negotiated solutions between the state and families to the problem of child maltreatment seem somewhat intuitive. Yet, the child welfare system has developed along a trajectory that has marginalized the potential benefits of community and family participation in the planning and implementation of child abuse interventions. As Ryburn (1998) argues, the law has been increasingly used to create artificial regulatory structures that have been used to supercede the traditional structure and role of the family as a social organization.

Until recently, the child welfare system has tended to exclude the family and community from actively participating in the formal child protection process. Instead, the system has become increasingly legalistic, bureaucratic, and forensically-oriented (Parton, 1985). As indicated earlier in this paper, kinship foster care is one means of fostering extended family involvement in the protection of children. Although such practices do little to restore balance within the existing power structures, and contribute little to the achievement of justice, the increased use of kinship foster care does suggest
that extended families are deemed capable and appropriate agents for child protection, which adds support for greater movement towards increasing the family’s scope of responsibility in child protection practice.

A Return to the Family

The role of the kinship network as an agent for ordering social relationships has been greatly degraded by socio-legal forces in the past century (Rayburn, 1998). The degradation of the social role of the family is made quite apparent in the current policies and practices of the child protection system. Policies such as the Adoption and Safe Families Act (1998), with its stringent timelines and explicit endorsement of permanency strategies such as adoption, provide evidence that the value of the family in child protection is not highly regarded.

An approach to child protection that is inclusive and empowering to families is a radical departure from traditional services, which have tended to operate from a set of assumptions that has discouraged the active involvement of extended family members to remediate abusive or neglectful situations within their own families. Many child protection workers have long believed that extended families were a detriment to the welfare of abused children. This sentiment is apparent in an early report published by the Society for the Prevention of Cruelty to Children (SPCC) that states: “The parents’ twisted relationship with his [sic] own parents, even though not first revealed, often shows up in the grandparents’ efforts to interfere or control the parents.” (Thompson, Paget, Bates, Mesch, & Putnam, 1971, p. 106). The report goes on to caution workers about involving extended family members in the child protection process.
Recent trends have led to a reexamination of the role of the extended family as a resource for child protection. Increasingly, the child protection system has come to depend on extended families as a resource. In recent years there has been a dramatic increase in the involvement of extended families in the child protection arena; however, the greater inclusion of extended family has been, for the most part, limited to using extended family members as foster parents, which is a trend that does not so much represent a shift in ideology, but is more a matter of practical necessity. A dwindling number of qualified foster parents, coupled with a burgeoning demand for child placements has contributed to an exponential growth in kinship care (Berrick, 1998).

*Intergenerational Transmission of Abuse*

Much of the reluctance to rely on extended families as a child protection resource assumes that an abusive parent's family of origin may not be capable of meeting that responsibility. There is a persistent belief that abuse begets abuse; however, such generalizations may be overly simplified. Although several researchers have noted a tendency for abusive behaviors to be passed on through multiple generations, the evidence of such a phenomenon is hardly conclusive (Clark et al., 1999; Kaufmann & Zigler, 1987; Yegidis, 1992; Widom, 1989).

There does appear to be a tendency for abused children to themselves become abusive parents; however, the likelihood of that happening is subject to a variety of factors. Some of those skeptical of the rapid proliferation of kinship care as a formal intervention point to the intergenerational hypothesis to support their position. Believing that "the apple doesn't fall far from the tree," critics of kinship care worry that placing a child in the care of his or her grandparents is not a safe alternative to foster care.
The assertion that abuse typically begets abuse in successive generations has been the subject of much scientific and ideological debate. Yet, there is no denying that an intergenerational occurrence of abuse is an existent feature among some violent families (Yegidis, 1992). The best estimate of intergenerational child abuse is 30% of those who were maltreated in childhood will themselves be aggressive adults and abusive parents (Kaufmann & Zigler, 1987; Clark et al., 1999), which is about six times higher than abuse rates found in the general public (Kaufmann, & Zigler, 1987). It should be noted that although there tends to be a significantly greater risk for abused children to grow up to be abusive parents, nearly 70% of them will not. Following the same line of reasoning, it can also be said that a good number of abusive parents were not themselves abused; therefore, many extended family members may be suitable foster caretakers.

Setting aside what could potentially happen in kinship placements and looking at what actually does happen in kinship placements, it seems that these concerns may be over emphasized. Zuravin, Benedict and Somerfield (1993) studied 66 foster families who had been reported for the maltreatment of a foster child in their care. They found that regular foster homes were 2.4 times more likely to have a confirmed report of maltreatment than were kinship or foster care homes caring for children with special needs. These findings suggest that children were, in fact, safer in kinship placements, although the sample is quite small.

Indeed, the propensity for abusive behaviors to occur across multiple generations appears to be a legitimate concern in some instances; however, these concerns do not entirely negate the potential benefits of expanding the role of the kinship network in child protection. These concerns can be further alleviated when the notion of the extended
family is not limited to first and second order blood relatives. If “family” is defined more broadly so that all family members with an interest in the welfare of a particular child are included in the system of care, it is more likely that the family’s resources will be sufficient to resolve protection issues and foster change in the abusive family (Ryburn, 1998).

Despite a concerted effort to ameliorate child abuse in the United States, the number of children in foster care has continued to grow, while at the same time the number of available foster homes has steadily declined (Altstein & McRoy, 2000). Utilizing extended family as a resource for out-of-home placements may meet a need for the child protection system, but it does not assure family empowerment in decision making.

The recent increases in kinship foster care alone represent a rather modest shift in child welfare practice; however, kinship foster care is an important aspect of family group conferences. Many FGCs result in kinship foster care placements (Crampton, 2000). Ryburn (1998) posits that when a FGC is used, the opportunities for kinship placements are enhanced because the pool of potential caregivers is expanded. Moreover, the growth in kinship foster placements suggests that families are both capable and willing to assume responsibility for child protection functions. Thus, given the close relationship between FGC and kinship foster care, some further discussion of kinship foster care is warranted.

**Kinship Foster Care**

Dubowitz & Feigelman (1993) identify three types of out-of-home care—regular family foster care, group care, and kinship foster care. Among these placement
alternatives, more than a quarter of dependent children go into kinship foster placements with their extended families (CWLA, 1999). Children generally enter out-of-home care for their own protection against abuse or neglect (GAO, 1995), and in other cases, children’s biological parents may be incapacitated due to physical, mental or drug-related problems or may be confined to a penal institution. In any event, out-of-home placements generally function to prevent the occurrence or reoccurrence of abuse or neglect in situations where the biological family is unable to provide for the basic needs and safety of their children. In such cases, the removal of children from their biological families helps to assure the existence of a society by preserving human capital.

Brady (1976, p. 288) argues that the adoption of children is “a prime example of conscious, volitional engineering of social life.” According to Brady, adoption is a resource management strategy that may be employed to address structural discontinuities or inequalities and disorders in resource allocation that people encounter in the course of perpetuating themselves and their social systems. Fosterage can be defined compared to adoption as a temporary change in kinship identity through kin group and perhaps residential realignment where no permanent arrangement is either negotiated or intended (Brady, 1976). “Where dependent children are involved, as is the usual case, fosterage represents the temporary sharing of primary jural parenthood with persons who would otherwise not be entitled to do so…” (Brady, 1976, p.15). Yet, the objective of both adoption and fosterage, which is to assure the well-being of children and, by extension, the greater community, is the same only differing with regard to the permanence of the arrangement. When viewed as a mechanism for the preservation of social capital, it makes perfect sense that fosterage and adoption constitute a fundamental aspect of child
welfare policy and practice. However, the emergence and reliance on a system of non-kinship caregivers for the protection of children is anomalous considering the traditional role of kinship networks in the resolution of family problems and preservation of social capital.

"Society has always had to deal with orphaned children or those whose parents could not care for them." (Rosenfeld et al., 1997, p. 448). Historically, the family, whenever possible, has taken on the responsibility for caring for children when the biological parents were unable to do so themselves. Kin have traditionally shared in the responsibility of raising children on an informal basis; it is a cultural pattern that has been a normative social response to threats against the well-being of children and their families for centuries, and in many cultures and subcultures remains the preferred pattern of substitute care (Hegar, 1999, p. 24). In some countries, such as New Zealand, kinship care is approached as the primary placement option, and traditional foster care is considered a last resort by child protection agencies (Worrall, 2001). In New Zealand, for example, nearly two-thirds of children in out-of-home care are in kinship placements (Worrall, 2001).

In the United States, the care of children by kin was traditionally viewed as an alternative to the child protection system; however, kinship foster care has recently emerged as a service that is encouraged and funded by the child protection system (Glesson, 1995). A series of judicial decisions and legislative actions have firmly established kinship foster care as a mainstay of modern child welfare practice.

Kinship care is rooted in the philosophy that family resources should be mobilized on behalf of abused or neglected children (O'Donnell, 1999). A philosophy stressing
family continuity has found favor within the child welfare community in recent years (Worrall, 2001). According to a national survey of 1,096 child welfare administrators conducted by Berrick & Lawrence-Kraski (1995), the vast majority of respondents (84.4%) viewed kinship placement as a viable resource in child welfare. Additionally, a majority of survey respondents felt that there should be parity between kinship and foster care placements in terms of standards (73.4%), responsibilities (80.4%), remuneration (75.1%) and social service provision (77.3%). It seems that many in the child welfare field have overcome the historical resistance to relying on extended family members as resources.

Kinship foster care does appear to have some distinct advantages over family foster care. Children in kinship care tend to experience a greater sense of belonging and empowerment (Altshuler, 1999); are less likely to be abused while in foster care (Zuravin, Benedict, Somerfield, 1993); and tend to have greater stability while in out-of-home care (Hegar & Scannapieco, 1999).

The enhanced safety in kinship foster placements found by Zuravin et al. (1993) may be attributable to a greater tolerance for the children in their care by kinship caregivers. Abusive caregivers tend to view their children as having problematic behaviors more often and of greater severity than do non-abusive caregivers (Mash, Johnson and Korvitz, 1983). Keller et al. (2001) found that children in kinship placements displayed fewer problem behaviors and greater competence than did children in non-relative foster care. In a related study Shore, Sim, LeProhn and Keller (2002) used the Teacher Rater Form and Children’s Behavior Check List (CBCL) to compare behaviors of 37 children in kinship care and 85 children in non-relative foster care. In this
study the children in kinship care and those in non-relative care did not differ according to teacher composite ratings of problem behaviors; however, teachers did rate children in kinship placements as having significantly more delinquent behaviors than those in non-relative placements. These findings support previous studies comparing caregiver perceptions of children’s behavior with those of teachers (Dubowitz & Sawyer, 1994). These findings suggest that kinship providers tend to perceive their relative children’s behavior less critically than do others outside of the family system.

Despite several indications that kinship foster care may be beneficial for abused children, there are also a number of concerns with the practice of kinship foster care. Negative aspects of kinship care include inadequate efforts to rehabilitate families, overburdening relatives with special-needs children and allowing funding concerns to drive placements rather than the best interest of children (Fein & Maluccio, 1992). One can see that many of the concerns over kinship foster care center on extrinsic resource deficiencies rather than an inherent inability to provide suitable care to their relative children. In other words, the problems associated with kinship care tend to involve inadequate social supports rather than the personal shortcoming of the caregivers themselves.

It also appears that the use of kinship foster care by the child welfare system has continued to rely on a rather narrow definition of the family. Most kinship foster parents are grandmothers who are oftentimes multiply disadvantaged. Dubowitz & Feigelman (1993) conducted a descriptive study of 524 kinship caregivers in Baltimore, Maryland. According to Dubowitz & Feigelman, kinship providers in the study sample had a mean
age of 48, tended to be single, less educated, unemployed and received fewer services from child protection case workers than did their non-kin contemporaries.

A poor understanding of the demands and resources needed to provide care for abused and neglected children is a common theme in the literature describing kinship caregivers (Berrick, Needle, Barth, 1999; Terling-Watt, 2001). Consequently, children in kinship care tend to be under served when compared to children in non-kin foster care. For instance, Cantos, Gries and Slis (1996) found that children in traditional foster care were significantly more likely to be referred for mental health services than were those in kinship care.

Others have argued that the growth of kinship foster care in this country represents a de facto form of social welfare where material resources are reallocated under the politically palatable guise of child protection (Bartholet, 1999). Evidence for this concern is mixed. A survey of child protection workers involved in kinship placements revealed that a significant number of professionals view Title IV-E payments as a disincentive for reunification. Workers complained that in some instances parents intentionally undermine reunification efforts so their relatives would continue receiving foster care funds, which could not be replaced after reunification (Berrick, Needle, Barth, 1999). In an analysis of 1418 children in placement settings, Vogel (1999) found that, on average, children in kinship placements remained in out-of-home care more than five months longer than children in foster care and ten months longer than children in group homes. However, the same year the GAO (1999) reported no difference in length of out-of-home placements or permanency goals between kin and non-kin foster placements. The GAO report concluded, “our survey showed no consistent findings regarding the
relationship between kinship care and permanency goals or the time foster children had spent in the system.” (GAO, 1999, p. 3). Regardless of the motives that lead to kinship foster care, evidence does suggest that kinship care is a viable child welfare alternative, and may be a superior one; however, the evidence for or against kinship foster care is rather scant.

Research on kinship care has not kept pace with its emergence as a child welfare intervention (Berrick, 1997). Despite the rapid growth of kinship care, as a child welfare intervention it has received the least attention from researchers of the various types of out-of-home care (Berrick, 1997; Dubowitz & Feigelman, 1993). This rather conspicuous gap in child welfare knowledge leaves the practice of kinship foster care open to a variety of criticisms. “In spite of the explicit preference for kin and states’ continued heavy reliance on kin as foster parents, kinship care remains a field of policy mired in controversy and complexity.” (Geen & Berreck, 2002, p. 4). The evidence that does exist suggests that kinship providers are capable of making meaningful contributions to the protection of children; however, a lack of resources may mediate that potential.

This brief review of the literature on kinship foster care leads to several conclusions that directly relate to the viability of expanding the role of kin in child protection through FGC. First, extended families are capable of providing safe and stable homes to abused children. Second, families have an inherent interest in self-preservation, and when the integrity of the family is threatened family members are generally willing to provide assistance. Last, many of the problems associated with kinship foster care do
not appear to involve intrinsic deficiencies on behalf of caregivers. Rather, extrinsic resource deficiencies appear to interfere with kin's ability to provide optimal care.

Some scholars suggest that kinship foster care should be conceptualized in keeping with family preservation policies and practices (Jackson, 1996). Berrick (1997, p. 280) describes kinship care as “… a developing phenomenon, falling somewhere between family preservation and foster care.” From a perspective founded in FGC, kinship placements are not merely a point along a family preservation continuum, they are, quite simply, family preservation. This is because the traditional view of family as consisting of a mother, father, and their offspring is expanded to include all those in the kinship network concerned with the well-being of a child. This broadening of the kinship network may serve to expand the resources available to potential caregivers because FGC provides families an opportunity to reveal, rediscover, or reinvent family roles, responsibilities and capacities for self-sufficiency. Conceivably, kinship placements stemming from FGC may prove superior to both family foster care and kinship foster care derived from traditional decision-making practices; however, such comparative studies have yet to be published.

*Family Group Conferencing Model*

Earlier in this paper, the origins and goals of the family group conferencing model were described. Here is a more detailed description of the FGC model and its theoretical underpinnings. Before discussing the actual conference procedure, I will outline the basic values and practice principles that underlie the FGC model. After describing the FGC model’s values, principles and structure, I will review theoretical material providing
a rationale for its use in child protection. Specifically, I will use procedural justice theory to support the use of FGC in child protection.

_Core FGC Values_

There are a number of variations of the FGC model currently in use in child protection practice, but in general FGC models share a set of common values that help to define it as a distinct practice modality:

1. **Family Centered:** A fundamental premise of FGC is that although professionals possess technical expertise concerning family functioning and patterns of behavior, their expertise is not superior to the intimate knowledge that a family has regarding its own unique characteristics and competencies (Ryburn, 1993). Thus, family members are the principal change agents in the FGC process. Family members are given a great deal of latitude in deciding who attends a conference, where and when a conference takes place, and in determining protective measures and remedial interventions for abusive parents.

2. **Inclusiveness:** Pennell & Burford (1994) have described the inclusive quality of FGC as “widening the circle.” FGC serve to include all of the relevant stakeholders for a particular issue into the decision-making process. In the case of child protection, stakeholders include the victim (if appropriate), nuclear and extended family members, child protection workers, and other participants, as needed. Inclusiveness serves to integrate the technical knowledge of professionals and the idiosyncratic knowledge of the families.
themselves, which leads to a richer understanding of the problems faced by families and creative solutions to those problems.

3. Restorative: The emphasis of conferences is on resolving problems rather than assigning blame. Efforts are made to describe how injurious behavior has affected conference participants, but the aim of these testimonials is to facilitate healing rather than to ostracize the offender. Second, providing families the opportunity to self-correct restores to them a rudimentary function of family life—self-preservation.

4. Solution Focused: Conference participants are encouraged to develop and implement creative solutions to harmful situations. Rather than taking a passive role, where formal agencies decide courses of action, responsibilities for action are shared among the participants. Thus, “adequate attention to the families’ wishes and needs rather than to professional agendas must be paramount.” (Jackson & Morris, 1999).

5. Empowering: The conferencing process seeks to uncover and harness the strengths of participants for changing harmful situations, and where deficits are noted, resources and supports are identified to assist families in carrying out plans. Empowerment also entails recognition of families’ unique circumstances, which includes consideration of socioeconomic and cultural aspects of families’ existence. According to the National Center for Cultural Competence (2003), the purposeful recognition, understanding and integration of culturally relevant material into services is what defines culturally competent practice, which is an inherent quality of FGC.
6. Responsiveness: FGC are designed to respond to the needs and desires of families. Accordingly, the level and types of formal interventions are differentially determined based on families’ needs.

*Principles of FGC*

According to Pennell (2003), there are nine key principles that guide the FGC model (see Table 1). The table also provides examples of FGC practices that adhere to the principles. When applied, these programmatic principles operationalize the FGC values described earlier (see Table 2) for examples of how the values, principles and practices are interrelated.
### Table I

**FGC Principles**

<table>
<thead>
<tr>
<th>FGC Principles</th>
<th>FGC Practices</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Build broad-based support and cultural competence</td>
<td>By including a wide range of community organizations and public agencies in planning, guiding, resourcing, and evaluating the program, and by partners retaining their distinctive roles and responsibilities</td>
</tr>
<tr>
<td>2. Enable the coordinators to work with family groups in organizing their conferences</td>
<td>By selecting coordinators who respect families and their communities. By making conference organizing the coordinator's primary role in relationship to the family, and by providing the coordinator with cultural and practice consultation.</td>
</tr>
<tr>
<td>3. Have the conference belong to the family</td>
<td>By giving reasons for holding the conference that the family group and service providers can agree with. By holding the conference in a place and in a way that fits the family's culture and by inviting more family group members than service providers.</td>
</tr>
<tr>
<td>4. Foster understanding of the family and creativity in planning</td>
<td>By inviting different sides of the family and by broadly defining what is family.</td>
</tr>
<tr>
<td>5. Help the conference participants take part safely and effectively</td>
<td>By preparing family group and service providers, by building in supports and protections, and by arranging transportation, child care, interpretation, etc., as needed</td>
</tr>
<tr>
<td>6. Tap into strengths on the family group in making a plan</td>
<td>By asking information providers to share concerns, knowledge, and resources but not to dictate the solutions, and by ensuring that the family group has private time to come up with a plan.</td>
</tr>
<tr>
<td>7. Promote carrying out the plan</td>
<td>By providing timely approval of plans regarding safety and resourcing by integrating supports and resources of the family group, community organizations, and public agencies, and by building in monitoring and evaluation of plans and follow-up meetings.</td>
</tr>
<tr>
<td>8. Fulfill the purpose of the plan</td>
<td>By implementing the plans as agreed or revising them as needed, and by supporting the efforts of the family group and service providers.</td>
</tr>
<tr>
<td>9. Change policies, procedures, and resources among family groups, community organizations, and public agencies</td>
<td>By developing and using integrative and culturally competent approaches, and by using program evaluation as a means of changing practice and policy</td>
</tr>
</tbody>
</table>

**Stages of FGC.**

Operationally, conferences can be conceptualized as having three distinct phases: planning/preparation, convening, and implementation/follow-up (Pennell & Macgowan, 2001). The convening phase of FGC is further organized to occur in distinct stages: information sharing, family private time, finalizing the plan, and closing (Pennell, 2003; Ryburn, 1993).

Pre-conference preparation involves identifying and contacting participants, familiarizing participants with the purpose of the conference and its process, and coordinating the time and location of the meeting itself (Pennell & Macgowan, 2001). Coordinators may spend as many as seven hours arranging and preparing for each conference (Sieppert, Hudson, & Unrau, 2000).

During the introductory stage of the conference, professionals provide the family with pertinent information regarding the case and their options for managing the case. Also in the introductory phase of the conference, the coordinator must ensure that information is conveyed to the family in a manner that is understood by family members and is free of inaccuracies and conjectures (Ryburn, 1993).

After providing the family with the information needed to make informed decisions, the family is provided an opportunity to meet privately to develop a plan. The task for the family during the private time is to agree to a plan for the protection of its own young person or child (Ryburn, 1993).

Once the family has constructed a plan, the professionals and family members reconvene to seek agreements from the referring agency and consider resources that may be needed to ensure the success of the family’s plan. Once the plan is finalized, and the
family and service providers are charged with carrying it out, arrangements are made for
monitoring and reconvening subsequent family conferences if necessary. Throughout the
conference stages, partnerships are encouraged by following the core values and practice
principles outlined previously.

Restorative Justice

FGC is one of several conflict resolution models founded on the values of the
restorative justice movement (McCold, 1999). Other procedural models falling within
the rubric of restorative justice include mediation, community conferences, peace-
making circles, and sentencing circles (Braithwaite, 2002). Restorative justice seeks to
redress wrong-doing through the inclusion and open dialogue of those parties affected by
particular offense. In so doing, models based on restorative justice values offer an
alternative to prevalent models of justice emphasizing retribution and rehabilitation
(Braithwaite, 2002). The aim of restorative justice is to solve problems in a manner that
elicits and integrates the perceptions and desires of those affected by the problem, thus,
promoting active responsibility for solving problems. “Active responsibility is the virtue
of taking responsibility for putting things right.” (Braithwaite, 2002, p. 129). Thus,
central to all restorative justice practice is the idea that direct contact between offender
and victims under the protective cover of the community is essential (Cohen, 2001).

Retributive justice is more concerned with punishing an offender than solving the
problems associated with an offense. As Braithwaite argues, restorative justice places the
focus of interested parties on the problem rather on the person. “Through blaming the
other, we declare ourselves blameless as we abrogate the possibility of us taking active
responsibility for righting the wrong.” (Braithwaite, 2002, p. 129). Restorative justice
models place the centrality of concern on understanding and solving problems as opposed to blaming and punishing offenders. Placing the focus on problems as opposed to persons encourages parsimonious solutions, because the extraneous influences of retribution are removed from the process (Braithwaite, 2000).

Restorative justice models also encourage a democratization of the problem-solving process where that which is being restored and the means by which restoration are to occur are defined by the participants in the process. The democratic process helps to achieve justice because the victims of injustice are given the opportunity to decide how those injustices are to be redressed. Thus, restorative justice is a mechanism through which the hegemonic relationship between the state and the family is replaced by participatory democracy.

Through restorative practices, the state operates on a course that is congruent with the needs of its citizenry. Braithwaite (2002, p. 29) describes this as “responsive regulation”, where government is responsive to the conduct of those it seeks to regulate. According to Braithwaite’s model of responsive regulation, the responsibility for regulation is first and foremost a function of those being regulated. To illustrate this model Braithwaite offers the “regulatory pyramid” (see Figure 1).
It is important to note that, in the case of child protection, the pyramid depicted in the figure is not based on interventions; rather, it is based on decision control. Interventions in child protection may appear to be retributive, but they are quite simply resources designed to help families. Movement within the regulatory pyramid hinges on how decisions are made. For example, out-of-home placement may be an intervention that is actively sought by a family, and as long as it is the family that has made that decision, the regulatory process is responsive. Similarly, if a family is incapable of resolving protection issues and CPS decides unilaterally to place a child in an out-of-home setting, the same intervention, out-of-home placement, will fall at a different point on the regulatory pyramid, but the process is still responsive. This is because the
decision-making power is placed first with the family, and only as a last resort does the state’s authority override the family’s authority.

A responsive regulatory approach towards child protection helps to integrate the dual objectives of child protection and family preservation along a continuum of state regulatory control. Rather than competing for precedence, the dual ideologies of child saving and child welfare are able to coexist because decisions as to what approach takes precedence are determined through a dialectic process and with a deliberate consideration of a family’s capacity to self-regulate. At the far end of the spectrum families informally resolve threatening or harmful situations to children in partnership with the state (child welfare). At the other end of the continuum the state exercises its obligations under the doctrine of parens patriae and accepts sole responsibility for the care of abused and neglected children (child saving).

The ascendancy in regulatory control by the state is predicated on an explicit failure of the family to resolve problematic situations free of the state’s influence. Thus, the state responds to families in accordance with their needs. If a family has the wherewithal to provide adequate care for their children, state intervention is not needed. On the other hand, if a family fails to provide adequate care for a child, the state must then partner with the family to establish means by which their complete independence can be restored. Continual failure by families to meet their responsibilities leads to an incremental increase in the state’s exertion of its regulatory authority.

Responsive regulation can be conceptualized as a balancing act, where the state’s power is used sparingly to counter the demonstrated deficits of the family while making full use of families’ strengths. As improvements are made in a family’s functioning, the
state withdraws its influence accordingly, because the aim of responsive regulation is to achieve the optimal level of compliance with social norms while using as little formal control as possible.

Restorative Justice Practices Applied to Child Protection

In light of the barriers to achieving justice described earlier, the principles of restorative justice are well suited to child protection. First, because there is no single unitary definition of child abuse nor are its causes typically singly determined, the efficacy of a ‘one size fits all’ response to child abuse is highly suspect. “Because child maltreatment is not a homogeneous issue, its treatment should not be universal in nature.” (Wilson & Saft, 1993, p. 216). The dubious success of child abuse programs heretofore suggests that no single response to child abuse is entirely adequate. Instead, child abuse interventions must be developed, which recognize and respond to each individual’s unique set of circumstances.

As single causal theories of child abuse have fallen from favor, the methods of treating families continue to be founded in a retributive model of justice that emphasizes the assignment of blame while ignoring many of the social and economic antecedents of child abuse (Sharland, 1999). This is a major inconsistency in the current praxis of child protection. Legislative and bureaucratic mandates dictate the state’s response to child abuse with little regard to the unique needs of children and their families. Although current child welfare knowledge has demonstrated that abusive behaviors are multiply determined and interventions must, therefore, target multiple domains (Lutzker & Rice, 1984; Wesch, & Lutzker, 1991; Olds & Henderson, 1989), the application of this knowledge remains somewhat superficial because the identification of those factors that
contribute to abuse and the means by which they are to be addressed are truncated by a set of ideological beliefs that limit the notion of who is responsible for child safety—namely the biological parents and the state. A consequence of maintaining a narrowly defined view of who is responsible for child protection may be the exclusion of extended family members from the processes and actions designed to safeguard children’s wellbeing. As Rayburn (1993, p. 6) points out, “Narrow definitions of family can tend to regard the family as the abuser. Families do not abuse. It is individuals in families who abuse.”

The official response to child abuse is further truncated by legislative guidelines that predetermine the manner and duration of the state’s response. Interventions are designed to address deficiencies within a narrowly conceived concept of the family. Thus, it is a situation where the state defines what is wrong with a family and then decides how to fix it, while ignoring a host of social and environmental circumstances that may otherwise mediate the states’ response to child abuse. FGC is a model for responding to child abuse that recognizes the contextual nature of family violence, and seeks to draw upon families’ unique and intimate knowledge of their own circumstances to derive relevant plans to respond to the problems they face. Family Group Conferences are negotiated exchanges between and among family members and the state. As asserted by Rappaport (1987) the development of interventions that take account of the idiosyncrasies of the family and their particular community may be more empowering than interventions relying on boilerplate solutions. According to Rappaport (1987, p. 141), “Locally developed solutions are more empowering than single solutions applied in a general way, and applied in the form of prepackaged interventions.”
Second, FGC responds to many of the problems related to the disparities in power between families and the state that were described earlier. Accordingly, "restorative justice practices can be related to social justice objectives." (White, 2000, p. 64). The FGC model places the decision-making power and accompanying responsibility for childcare matters back with the family (Jackson & Nixon, 1999). When decision-making power is shared with families, perceptions of institutional bias may be neutralized. Indeed, as will be discussed at greater length later in this paper, the process of forming a group with a shared purpose is a potent aspect of achieving justice.

Elsewhere in this paper I have argued that the social institution of the family is, to a great extent, self-correcting. This is an important feature of family life to keep in mind when considering the relevance of restorative justice practices for child abuse and other forms of family conflict. Restorative justice implies that the site at which intervention occurs is public space (Cohen, 2001). Those most affected by a problem have access to the procedure free from untoward intrusion by the state. From this perspective, restorative justice is restoring control over conflict and justice to those to whom it naturally belongs—the family (Cohen, 2001). This aspect of FGC may be best described as transformational because it realigns the underlying power structures between the family and the state.

With regard to child abuse, the family serves a dual role having been affected directly and indirectly by the abuse of a relative child. The family network is directly impacted by abuse because such behavior threatens the integrity of the family. Therefore, the family joins the abused child in his or her role as a victim of abuse. At the same time, families function as a network of concern which abusive parents and their
victims can rely upon for support and nurturance. Therefore, placing the responsibility of redressing child maltreatment with the family is an aspect of FGC that is of utmost importance, and unless the family is incapable of fulfilling their responsibilities for self-correction, interference from the state should be minimal. From this perspective, FGC functions in a capacity more popularly associated with restorative justice practice which is the restoration of victims of maltreatment to a pre-victim state and reintegrating offenders into their communities. The dual roles of the family allow for offender reintegration and victim restoration to be achieved even if the primary victim, the abused child, is not present for the FGC.

**Responsive Regulation of Child Maltreatment**

The notion that the families should be given the opportunity to self-correct before state interventions comes from Braithwaite's (2002) model of responsive regulation and it provides a critical theoretical underpinning for understanding the redistribution of power that FGC inspires among families and state authorities. The family retains their autonomy hence, decision-making power, to the extent that they are able to act responsibly. As state agencies become more responsive to the needs of the families vis-à-vis FGC, their involvement will be legitimated concomitantly. This, in turn, strengthens the agency rather than weakening it. Under an FGC model, although child protection workers continue to retain the authority vested in them by the state, the exercise of that authority is largely determined through the collaborative efforts of the state and family rather than single entities. FGC allows for negotiated exchanges between the state and the family to occur. More importantly, these exchanges are likely to be perceived as fair by the participants, because the distribution of power between the
Achieving Procedural Justice with FGC

state, the family, and the victim are brought into balance through the FGC process. This balance is achieved by affording FGC participants greater power in the form of decision-making control.

To achieve responsiveness, the expectations, conditions of compliance and available resources must be clearly understood by both the state and family. This should be obvious in light of the responsibilities of the family to decide on the intervention strategies that will meet the requirements of CPS, the offending parents, the victim, and the family itself. To attain this level of knowledge and understanding, the FGC participants must form a partnership that will facilitate the exchange of information and resources, so that the family is prepared to make accurate decisions. In essence, restorative models of conflict resolution, as applied to child protection, foster a cohesive partnership between the state and the community, which is an empowering aspect of FGC.

"Empowerment is the process of increasing personal, interpersonal, or political power so that individuals, families and communities can take action to improve their situations" (Gutierrez, 1995, p. 229). Empowerment theory is based on the proposition that peoples' ability to improve their circumstances is determined by their ability to control their environments, connect with resources, negotiate problematic situations and change situations that limit their functioning (Gibson, 1993).

Although the degree to which FGC will be empowering to families rests to some extent on how well the restorative justice model is adhered to (Jackson & Morris, 1999), minor deviations from these principles are not likely to negate the empowering aspects of FGC entirely. For instance, CPS workers retaining authority over the initiation of an
FGC, which is contrary to restorative justice principles, does not necessarily undermine the empowerment of those families who do engage in FGCs.

A restorative approach towards child protection is a stark contrast to existing deficit-based models of service where professionals develop and implement service plans with an authority derived from judicial, legislative and bureaucratic sanctioning. Traditionally, the state has imposed its will on families while rarely soliciting input from the families themselves. Deriving authority from legalistic sources and the exerting of that authority through non-participatory, decision-making procedures comes at the cost of legitimization from those being served. Abusive families are constrained in their relationship with child protective agencies because abandoning that relationship may incur unacceptable costs. Thus, the relationship between the state and the family within the context of child protection is typically involuntary, which necessitates a degree of adaptation on behalf of those in the lower status position.

Thibaut & Kelley (1967) argue that in such instances, lower status individuals or groups adapt to deprivation by altering their perception of what they deserve, finding means of achieving unattained outcomes, or by rebelling against the sources of their deprivation. In all, the goal of adaptation in instances of deprivation appears to be the maintenance and assertion of control over the process, no matter how artificial that control may be. Thus, when participants are empowered to exercise greater control over decision-making procedures, their need to adapt to conditions of deprivation is lessened.

In his seminal book, *Restorative Justice and Responsive Regulation*, Braithwaite (2002) identifies procedural justice theory, among several other theories, as a means of explaining why restorative justice models may reduce re-offending and enhance
restoration. However, very little effort has been made to test Braithwaite's assertion. The concept of procedural justice is rarely mentioned in the restorative justice literature, but whenever research has examined perceptions of procedural justice, it has been found that people always make procedural justice assessments and that those assessments are always important (Lind & Tyler, 1988, p. 141). There is universal appeal to being treated fairly and procedural justice is important to people regardless of their cultural affiliations (Lind, Tyler, & Huo, 1997), or their gender (Martinez-Tur, Ramos, and Peiro, and Garcia-Buades, 2001). As I will illustrate in subsequent sections, procedural justice theory is highly relevant to restorative justice practices, particularly in relation to the practice of FGC within the context of child protection.

Since a central function of FGC is to place the responsibility, hence greater control, with families themselves, it follows that FGC participation will result in higher appraisals of procedural fairness and increases in satisfaction among participants in a decision-making process (Braithwaite, 2002, p. 79). Furthermore, to the extent that the family maintains control over the procedures and outcomes, dissatisfaction, resentment and other maladaptive responses towards CPS intervention will be minimized. "Because legitimacy has a procedural justice basis, legal authorities can deliver unfavorable outcomes to citizens without harming their legitimacy if those outcomes are delivered through procedures people view as fair" (Tyler, 1990, p. 175).

Procedural Justice

Procedural justice theory emerged from earlier formulations of social exchange theory (Blau, 1964; Homans, 1974; Thibaut and Kelley, 1967) and equity theory (Adams, 1963). Early formulations of social exchange theory emphasized the outcomes of social
exchanges and evaluations of fairness of those outcomes (distributive justice). Social exchange theorists and equity theorists assumed that individuals judged the fairness of an exchange solely on the merit principle, which dictates that fairness exists when rewards are proportional to contributions (Adams, 1963; Homans, 1974). Procedural justice theorists, on the other hand, suggested that evaluations of fairness were more complex than the unidimensional concept of fairness suggested by equity theory, and that the merit principle was but one aspect of individuals’ appraisals of justice (Leventhal, 1980).

Thibaut and Walker (1975) argued that judgments of fairness were determined by both process control (procedural justice) and outcome control (distributive justice). This argument has been supported by a series of experiments which have consistently demonstrated that how one perceives the fairness of a procedure is largely a function of the amount of control that he or she has over the process and is an important determinant of satisfaction with the outcome of a procedure (Musante, Gilbert, Thibaut, 1983; Thibaut and Walker; 1975).

*The Construct of Procedural Justice*

In a critique of equity theory, Leventhal (1980) expanded Thibaut and Walker’s work by positing that procedural justice may be evaluated by examining one or more of the following seven procedural elements: selection of agents, setting ground rules, gathering information, decision structure, appeals, safeguards, and process change mechanisms. Leventhal (1980, p. 39-46) further speculated that each of the seven procedural elements may be evaluated according to six “procedural justice rules”: consistency rule, bias suppression rule, accuracy rule, correctability rule, representativness rule, and the ethicality rule. The *consistency rule* dictates that allocative
processes should be consistent across persons and stable over time. The bias suppression rule dictates that self-interest and bias should be prevented throughout the allocative process. The accuracy rule dictates that the allocative process must be based on as much good information and opinion as possible and that information should be applied to the procedure with minimal error. The correctability rule dictates that opportunities must exist to modify or reverse decisions made throughout the allocative process. The representativeness rule dictates that all phases of the allocative process must reflect the basic concerns, values, and outlook of important subgroups in the population of individuals affected by the allocative process. The representativeness rule is analogous to Thibaut and Walker's (1975) conception of process and outcome control; however, Leventhal does not explicitly differentiate the two kinds of control. The ethicality rule dictates that procedures must be compatible with fundamental moral and ethical values of the individuals involved. Leventhal's conception of procedural justice has been used extensively as a guide for assessing procedural justice in the social psychology literature, and significant support for Leventhal's rules of procedural justice have been established in applied and experimental research (Jackson & Fondacaro, 1999; Lind & Tyler, 1988; Makkai & Braithwaite, 1996; Tyler, 1988).

Tyler (1988) has empirically tested the theoretical criteria used to assess procedural justice. Combining and extending the criteria suggested by Thibaut and Walker (1975) and Leventhal (1980), Tyler examined the importance of each criterion to citizens' assessments of procedural justice. Using a sample of 652 Chicago residents who had experiences with the court or police in the previous year to explore individuals

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3 The term "allocative process" refers to the procedural mechanisms through which resources, rewards, and punishments are allocated.
conceptions of procedural justice, Tyler (1988) found that when people evaluate fairness, procedural justice was more important than distributive justice. In terms of the relative importance of the criteria used to assess procedural justice, Tyler found that there were seven aspects of procedural justice that made independent contributions to assessments of fairness: efforts of authorities to be fair; whether their behavior was consistent with ethical standards; whether opportunities for representation were given; the quality of the decisions being made; whether there were opportunities to appeal decisions; and whether authorities showed bias. Factor analysis revealed that there are two underlying factors of procedural justice assessments. The first factor concerns the qualities of the experience itself: representation, impartiality, and accuracy of decisions. The second factor concerned external referents: consistency, as compared to past experiences or the experiences of others; and ethicality, which compares the experience to external standards. Tyler noted that the effort made by authorities to be fair was a key overall factor in assessing procedural justice, suggesting that trust constitutes a distinct criterion for evaluating procedural justice.

Tyler (1988) demonstrated that there are common criteria for the evaluation of procedural justice that may vary in their relative importance depending on the nature of the experience, a finding consistent with Leventhal's (1980) theory. Tyler also discovered that in a given situation, there was little variation in the relative importance of procedural justice criteria among individuals. These findings led to Lind & Tyler's (1988) group-value theory of procedural justice. According to the group-value theory of procedural justice, group membership mediates concern with justice and influences the evaluation of procedural justice. Specifically, group-value theory posits that procedural justice
Achieving Procedural Justice with FGC

standards arise from two sources: "(1) the group’s overall social values; and (2) the interest of the individual being treated as a full fledged, full-status member of the group" (Lind & Earley, 1992, p. 232). Tyler and Lind (1990) found that group standing influenced concerns about justice. Socially marginal group members were found to care the least about justice, while those who were central to groups cared the most about justice. Tyler and Lind’s findings make sense when considered in light of the tendency mentioned earlier for those deprived of power in social exchanges to adapt to deprivations accordingly (Thibaut & Kelley, 1967).

Thus, a possible explanation for the reduced importance of procedural justice to socially disadvantaged individuals may be related to a sense of hopelessness and the subsequent adaptation of defeatist or rebellious attitudes. Lind & Tyler’s (1988) group-value theory of procedural justice underscores the importance of elevating traditionally marginalized people’s status in procedural settings. As Tyler (2000) argues, an individual’s appraisal of their own status flows from how they are treated by authorities rather than what they receive. Giving respect, which is conveyed through considerate and fair treatment, imparts high status.

Achieving Procedural Justice through FGC

Earlier, it was noted that, in the absence of objective standards, negotiated exchanges that are controlled by the participants are preferred to more autocratic procedures. It was also argued that objectivity is a quality that is often not apparent in relation to matters of child protection. Further, it was argued that social inequality between those representing the interest of the state and families involved in child
protection services may be an additional source of bias. Thus, concerns about procedural justice are particularly salient in child protection practice.

The creation of a group that includes all those with an interest in protecting an individual child and assures that their voices are heard are important contributions to achieving justice and improving the functioning of child protection agencies. People tend to be less concerned with justice when dealing with others outside of their social or ethnic group (Tyler, Lind, Ohbuchi, Sugawara & Hou, 1998). This may be particularly true when group differences are accompanied by power imbalances that give advantages to one party at the expense of another.

The FGC model expands the boundaries of the system for protecting children, which, according to the group-value theory of procedural justice, encourages legitimization of the state’s authority and diminishes individual concerns in favor of group needs (Smith & Tyler, 1996, p. 175). Tyler (2000, p. 120) argues that, “procedural justice is central to creating and maintaining internal values that support voluntary cooperative behavior on the part of members of groups.” Collectivism overrides individual concerns in favor of group needs (Lind & Earley, 1992). Although the importance of creating egalitarian groups is a significant factor for achieving justice through FGC, the actions of the participants and coordinators of the group clearly contribute to the overall achievement of justice as well.

Applying the aforementioned rules of procedural justice to the FGC model illustrates the potential that FGC has for achieving greater justice in state child protection procedures. The values and principles of FGC are highly attuned to a variety of aspects of procedural justice.
Achieving Procedural Justice with FGC

Consistency.

Consistency is achieved through the application of responsive regulatory practices, providing opportunities for equal input of FGC participants and maintaining fidelity to the FGC model in repeated conferences. Families are informed of the conditions required to maintain autonomy, thus reducing perceptions that CPS actions are arbitrary.

Representativeness.

Compliance with the representativeness rule of procedural justice is perhaps the most important aspect of FGCs. Thibaut and Walker (1975, p. 121) argue that in relation to procedural models, the distribution of control appears to be the best predictor of fairness and thus, satisfaction with the outcome of the procedure. Lind, Kanfer & Earley (1990) found that having a voice in a given procedure corresponds with a greater sense of fairness. The importance of voice was significant whether it influenced the outcome or not. Hunton, Hall and Price (1998) have replicated these findings; they determined that perceptions of fairness, control, and satisfaction were more positive as the magnitude of voice increased.

Representativeness is achieved by giving deference to the families' wishes and decisions throughout the FGC process. Although not specifically differentiated in Leventhal's (1980) model of procedural justice, instrumental and expressive forms of control are both important factors in the assessment of procedural justice. Research has demonstrated that perceived control in relation to decision processes corresponds with greater satisfaction with procedures and outcomes (Lind & Tyler, 1988) and encourages compliance with authorities (Makkai & Braithwaite, 1996). The FGC model provides
opportunities for family participants to assert some degree of control over both the
decision-making process and the ultimate outcome.

With regard to the procedure, families have control over whether to hold a
conference, who to invite to the conference and are free to provide input regarding the
problem, its effects, and the means of resolving the problem. Moreover, families are
afforded control over the ultimate outcome of the procedure—the case plan. Although
limitations may be applied to those decisions, such as the need for out-of-home
placement or drug abuse treatment, families typically have a great deal of latitude in
deciding how problems are to be addressed within the boundaries imposed by state
agencies.

*Bias Suppression.*

Leventhal (1980) identifies two potential sources of bias. First, procedures are
unfair if a decision-maker has a vested interest in achieving a specific decision. Second,
procedures are unfair if they are based on doctrine to the extent that other points of view
are not considered. The suppression of bias is achieved in FGC by expanding the
decision-making circle to include all those affected by the problem and encouraging them
to contribute to the decision-making process. The inclusiveness of FGC and its explicit
emphasis on resolving problems as opposed to blaming and punishing offenders breaks
down social barriers among participants and creates a common group identity with a
common goal of protecting a child. The vested interest of all parties is the protection of
the child and welfare of the family. Furthermore, the encouragement of creative
solutions to child maltreatment reduces the reliance on doctrinal solutions typically
employed by CPS agencies. Creative solutions brought about by combining the technical
knowledge of professionals and the idiosyncratic knowledge of families enable solutions to be derived that do not rely solely on child protection doctrine.

*Ethicality.*

Respecting family and cultural traditions and integrating those basic values into the decisions achieve ethicality. Providing families opportunities to make contributions to the decision-making process that are mostly unfettered by influence from state authorities help to ensure that their families’ own world views are congruent with the final outcomes of the conference.

*Accuracy.*

Sharing information in a public space and allowing input from diverse sources help to achieve accuracy. The FGC model specifically sets aside time to share information about the problem. Information from multiple viewpoints is solicited and participants are given opportunities to clarify or confirm the perceptions of the other participants. The importance of accuracy is illustrated by Pruitt, Pierce, McGillicuddy, Welton, & Castrianno (1993, p.327), who found that compliance with mediated agreements was significantly related to the extent that the information presented in mediation allowed “all the problems to come out.”

*Correctability.*

Correctability is achieved by responsive regulatory practices, which is an inherent aspect of the FGC model. The decisions made in FGC are subject to correction and modification based on adherence to plans and the continued relevance of plans. Subsequent FGCs serve to examine and modify earlier decisions. Although correctability is a feature of FGC, the relative importance of this rule is somewhat questionable to the
appraisal of justice in FGC. The importance of correctability in FGC is not likely to be a major factor in families’ appraisals of justice. Because plans are derived by the families themselves the importance of having formal mechanisms for redressing perceived injustices is not likely to strongly influence evaluations of procedural justice.

FGC is a means of overcoming the barriers to justice described earlier. The values and practice principles that comprise the FGC model foster procedural fairness in multiple ways, which will, theoretically, lead to greater satisfaction and compliance with the safety and treatment plans designed to reunify families. Table II summarizes the relationships between the values, principles and procedural concerns of FGC.

Table II
Integration of FGC Values, Principles, and Procedural Justice Rules

<table>
<thead>
<tr>
<th>Core FGC Values</th>
<th>FGC Principles</th>
<th>FGC Practices</th>
<th>Procedural Justice Rules</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inclusiveness</td>
<td>1. Build broad-based support and cultural competence</td>
<td>By including a wide range of community organizations and public agencies in planning, guiding, resourcing, and evaluating the program, and by partners retaining their distinctive roles and responsibilities</td>
<td>Bias Suppression</td>
</tr>
<tr>
<td>Responsive</td>
<td></td>
<td></td>
<td>Representativeness</td>
</tr>
<tr>
<td></td>
<td></td>
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<td>Accuracy</td>
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<td>Ethicality</td>
</tr>
<tr>
<td>Family-Centered</td>
<td>2. Enable the coordinators to work with family groups in organizing their conferences</td>
<td>By selecting coordinators who respect families and their communities. By making conference organizing the coordinator’s primary role in relationship to the family, and by providing the coordinator with cultural and practice consultation.</td>
<td>Bias Suppression</td>
</tr>
<tr>
<td>Empowering</td>
<td></td>
<td></td>
<td>Representativeness</td>
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<td>Ethicality</td>
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<td></td>
<td></td>
<td></td>
<td>Accuracy</td>
</tr>
<tr>
<td>Family Centered</td>
<td>3. Have the conference belong to the family</td>
<td>By giving reasons for holding the conference that the family group and service providers can agree with. By holding the conference in a place and in a way that fits the family’s culture and by inviting more family group members than service providers.</td>
<td>Bias Suppression</td>
</tr>
<tr>
<td>Empowering</td>
<td></td>
<td></td>
<td>Representativeness</td>
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</tr>
<tr>
<td>Family Centered</td>
<td>Foster understanding of the family and creativity in planning</td>
<td>By inviting different sides of the family and by broadly defining what is family.</td>
<td>Bias Suppression</td>
</tr>
<tr>
<td>Responsive</td>
<td></td>
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<td>Representativeness</td>
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<tr>
<td>Family Centered</td>
<td>Help the conference participants take part safely and effectively</td>
<td>By preparing family group and service provides, by building in supports and protections, and by arranging transportation, child care, interpretation, etc., as needed</td>
<td>Bias Suppression</td>
</tr>
<tr>
<td>Empowering</td>
<td></td>
<td></td>
<td>Representativeness</td>
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<td></td>
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<td></td>
<td>Ethicality</td>
</tr>
</tbody>
</table>
Achieving Procedural Justice with FGC

| Restorative | Tap into strengths on the family group in making a plan | By asking information providers to share concerns, knowledge, and resources but not to dictate the solutions and by ensuring that the family group has private time to come up with a plan. | Bias Suppression |
| Empowering | | | Representativeness |
| |
| Responsive | Promote carrying out the plan | By providing timely approval of plans regarding safety and resourcing by integrating supports and resources of the family group, community organizations, and public agencies, and by building in monitoring and evaluation of plans and follow-up meetings. | Consistency |
| Empowering | | | Correctability |
| |
| Empowering | Fulfill the purpose of the plan | By implementing the plans as agreed or revising them as needed, and by supporting the efforts of the family group and service providers. | Bias Suppression |
| Responsive | | | Representativeness |
| |
| Responsive | Change policies, procedures, and resources among family groups, community organizations, and public agencies | By developing and using integrative and culturally competent approaches, and by using program evaluation as a means of changing practice and policy | Correctability |
| | | | Accuracy |
| | | | Ethicality |


Outcomes Associated with Just Procedures

Although not extensively studied with regard to child protection decision-making strategies or FGC in particular, there is a diverse body of literature that supports the assertion that procedural justice is an important aspect of satisfaction with procedures and subsequent compliance with their outcomes and the legitimization of authorities in a variety of situations (Tyler, 1990; Tyler & Folger, 1980; Sunshine & Tyler, 2003). In a survey of New York residents, Sunshine & Tyler (2003) found that perceptions of procedurally just behavior by police officers were the primary driver of citizen’s legitimization of police authority which ultimately leads to greater compliance with the law (Tyler, 1990; Sunshine & Tyler, 2003). Findings that perceptions of procedural...
justice lead to greater regulatory compliance have also been found among healthcare administrators (Makkai & Braithwaite, 1996); and civil court litigants (McEwen & Maiman, 1984).

Perceptions of procedural justice have been consistently linked to greater satisfaction with outcomes in a variety of diverse settings. Martinez-Tur, et al. (2001) found that perceptions of procedural justice positively influenced customers’ satisfaction with the outcomes of hotel guests’ complaints. Tyler & Folger (1980) found that perceptions of procedural fairness predicted satisfaction with law enforcement officials among individuals stopped by police. Perceptions of procedural justice predicted satisfaction independently of whether an individual was cited or not by the police. Tyler, Rasinski, and McGraw (1985) found that perceptions of procedural justice influenced citizens’ evaluations of political leaders regardless of the benefits they received from the government. Consistently, research has indicated that how one is treated is more important than what one receives.

There is also evidence that alternative dispute resolution models (e.g. mediation) are perceived as being more procedurally just than models that limit the participation of disputants, such as arbitration or adversarial models. However, the evidence supporting bilateral conflict resolution strategies is not conclusive and in some instances has contradicted the notion that bilateral resolutions are superior (Vidmar, 1992). Research suggests that the nature of disputes may lead to preferences regarding the type of resolution procedure employed. In cases where conflicts are high and outcomes are non-negotiable, people tend to prefer procedures that give third parties greater control (Heuer & Penrod, 1986; Thibaut & Walker, 1975). However, in the case of child protection,
where objective standards are lacking, and a variety of options may exist for resolving problems, a preference for greater control among disputants is likely.

Mediation in child protection cases is sometimes described in ways that make it indistinguishable from FGC (Barsky, 1996; Carruthers, 1997); however, there are factors that differentiate FGC from mediation. Mediation typically involves the resolution of disputes between two parties, which is facilitated by a third-party intermediary. FGC, on the other hand, seek to include participation from a broader range of stakeholders, not merely two disputants; thus, the FGC process depends on the normative effects of group process (Adams & Chandler, 2002). Moreover, the emphasis in mediation often involves the resolution of competing interests between disputants, whereas, in FGC, when they are conducted in accordance with the principles and values described earlier, the emphasis is on partnering disparate parties for the attainment of a common goal—child protection. Thus, if an FGC adheres to the restorative model, concerns with gains or losses related to the outcome of the procedure will be a distant second to concerns regarding the safety and welfare of the child and family.

Although FGC and mediation are not identical models, they share enough in common that the literature examining the procedural fairness of mediated conflict resolution may provide some support for FGC, albeit indirectly. Procedural justice judgments are strongly related to adherence to agreements derived from participatory conflict resolution processes. Shapiro & Brett (1993) compared perceptions of procedural justice among two groups of disputants. One group consisted of union miners who had grievances addressed through mediation and the second group had grievances settled by arbitration. The principal difference between the two dispute resolution procedures was
the level of control afforded in influencing the outcome. Mediation offered an
opportunity for the disputants to develop the outcome, while a third party determined the
outcome of arbitration. Shapiro and Brett found that mediated conflicts were viewed as
procedurally just more often than were arbitrated conflicts. Specifically, Shapiro and
Brett found that mediation participants valued the opportunity to control the outcome.

Similarly, in an examination of 73 mediated cases from the Neighborhood Justice
found that procedural fairness in mediated conflicts was a key determinant for long-term
adherence to agreements. The relationship between procedural fairness and compliance
held even when outcomes did not favor the disputants. Furthermore, Pruitt et al. found
that having an opportunity to state one’s opinion was a critical factor in long-term
compliance with mediated agreements.

*Ideological Debates and Restorative Practice*

The use of FGC in child protection has not been entirely without controversy.
Elizabeth Bartholet (1999), an outspoken critic of the family preservation philosophy and
many other aspects of the child welfare system in America, has summed up the concerns
Making] advocates have chosen the feel-good phrase family empowerment to describe
the essence of what their movement is about. In fact it is about giving parents accused of
maltreatment, together with other adult family members, even greater power over the fate
of their children, and limiting the larger community’s sense of responsibility for them.”
She goes on to argue somewhat inconsistently that “It is important to support and
empower families and to encourage extended family members to take responsibility for
their youngest members. But when children have been subjected to severe forms of abuse and neglect, the state should not abdicate its responsibility (p. 146).”

Bartholet’s (1999) criticisms may reflect dominant beliefs and fears within the child welfare system regarding the use of FGC. FGC is, among other things, a model of social work practice that requires a shift in the relationships between professionals and families (Adams & Chandler, 2002). As a radical departure from traditional practice, the acceptance of FGC may be perceived by many as an equally radical departure from the way they traditionally define their professional roles and responsibilities. One explanation for the limited acceptance of FGC within much of the mainstream child welfare system rests on a reliance on “tried and tested” decision-making approaches that place power with the child protection professionals (Merkel-Holguin, Nixon, Buford, 2003).

These criticisms tend to imply that the transfer of power between CPS and families is a zero-sum exchange—an exchange where the transfer of a resource to one party necessarily entails a commensurate loss for the other party. However, “empowerment is not a scarce resource which gets used-up, but rather once adopted as an ideology, empowerment tends to expand resources” (Rappaport, 1987, p. 142). The notion of responsive regulation implies a measured use of power rather than an abdication of power. When families are empowered to be self-reliant and encouraged to use those skills, the state retains its power to intervene, but may have no call to do so.

Assuming that FGC leads to abdications of power by state agencies ignores the underlying theoretical and practice principles of the model. Responsive regulation, fair procedures and empowerment strategies may, in fact, result in a net gain of power for the
state and the family. As Thibaut & Kelley (1967, p. 119) argue, “...power can be
maintained at its maximum only if it is used considerately and sparingly.” Thus, exerting
the same level of authority, regardless of families’ unique circumstances, diminishes
resources at a faster rate than selectively exerting authority based on demonstrated need.

Furthermore, empowering strategies lead to a net gain in resources, because as
Rappaport (1987, p. 141) argues, “other things being equal, an organization that holds an
empowerment ideology will be better at finding and developing resources than one with a
helper-helpee ideology, where resources will be seen as relatively scarce and dependent
on individuals.” Although there is a good deal of theoretical support for FGC, the
empirical support is somewhat lacking in its quantity and sophistication.

Family Group Conferencing Outcomes

Much of the research on FGC has been descriptive in nature. Many of these
program evaluations have emphasized aspects of program fidelity and somewhat
superficial outcomes, such as level of participation, duration of conferences, rates of
accepted plans and participant satisfaction. Although this kind of research is useful for
describing FGC, it falls short of explaining how the model works to transform the child
welfare culture or how it achieves greater safety and stability for children and families.
Furthermore, the existing research is characterized by a lack of methodological
sophistication. Very few of the published FGC research studies utilize comparison
groups and an extensive literature review yielded no studies that were based on a true
experimental design. The methodological weaknesses in much of the FGC research
makes it difficult to draw conclusions regarding the efficacy of FGC as compared to
traditional practice; however, the consistency of findings across studies seems to indicate
that FGC is a viable alternative to traditional decision making strategies in child
protection.

Repeatedly, evaluations of FGC programs have indicated that they result in the
creation of plans that are satisfactory to the court, protection agencies, and families
(Rasmussen, 2003; Sieppert, Hudson, and Unrau, 2000; LeCroy & Milligan, 2002;
Gunderson, Cahn, Wirth, 2003). Although not directly examined in any published study,
there are indications that FGC does address a variety of procedural justice concerns.

Families participating in FGC feel that they are afforded a good deal of process
and outcome control (LeCroy & Milligan, 2002; Sieppert, Hudson, and Unrau, 2000).
Others have found that FGC promote family unity (Pennell & Burford, 2000) and foster a
sense of shared responsibility among family members and CPS workers (LeCroy &
Milligan, 2002). Ultimately, according to case workers' appraisals, FGC results in the
creation of improved plans compared to traditional practices (Rasmussen, 2002), and
there is some indication that compliance with plans derived from FGC is superior to plans
derived from traditional decision-making processes (LeCroy & Milligan, 2002; Rodgers,
examined 189 FGC cases. In addition to high levels of satisfaction and plan completion,
they found that a re-referral rate of 6.8% compared to the state average of 8.1%.

Although methodological weaknesses in the studies described above preclude
establishing causal paths between FGC participation and greater compliance, the
uniformity of findings are suggestive of a causal relationship. The research on outcomes
is far less developed than that involving process outcome and implementation outcomes;
however, one recent publication did not find that FGC results in improved case level
outcomes. In one of the few prospective studies employing a comparison group, Sundell and Vinnerljung (2003) found that FGC were not associated with reducing child maltreatment or expediting case closures. Sundell and Vinnerljung’s findings are confounded because FGC referrals in Sweden appear to involve more severe cases. With the exception of Sundell and Vinnerljung study, research has shown that FGC have some advantages over traditional approaches to decision making in CPS. The tendency for conferences to yield acceptable plans, foster client satisfaction and improve compliance, have also been found in Hawaii’s FGC program.

*Family Group Conferencing in Hawaii, ‘Ohana Conferencing*

Hawaii is among the states and municipalities in the United States that has adopted an FGC program. The Hawaii FGC program has been in place since 1996 and as of July, 2001, has conducted 1,117 conferences (EPIC, 2001). One of only a few states with statewide FGC programs, Hawaii provides an ideal setting for studying the effects of FGC.

Hawaii’s FGC program, known as ‘Ohana Conferencing (OC), was developed in a collaboration between the Family Court in Honolulu and the Department of Human Services (DHS), the parent agency of the State’s Child Protective Services (CPS) (Child & Family Services Plan, 2002). ‘Ohana is the Hawaiian word meaning “family”. OC was initiated after key stakeholders working in the child welfare field in Hawaii recognized a pressing need for systemic reforms. Key stakeholders, service providers, and community advocates complained that Hawaii’s child welfare system was fragmented and compartmentalized; overburdened by high caseloads; unresponsive to the

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4 The word ‘Ohana means family, relative, kin group; related. It is also a commonly abbreviated to express the terms ‘Ohana ‘holo’oko’a, ‘ohana nui, referring to extended family and clan.
community and families; and overly concerned with tertiary care (NCJFCJ, 2003). Since its initial piloting in Waianae, an economically disadvantaged community on the Leeward coast of Oahu, OC has been endorsed by the state legislature and implemented statewide.

OC is a variation of FGC models found in other settings. OC was developed using practices from two FGC models—the Oregon Model and the New Zealand Model (Adams & Chandler, 2002). From the Oregon Model, OC incorporated an enhanced information-sharing phase into the conference process, and from the New Zealand model, OC has integrated private-family time, and a purposeful recognition and integration of cultural practices (Adams & Chandler, 2002). Similarities between New Zealand and Hawaii, both being colonized Polynesian islands with highly diverse multiethnic populations, provided a rationale for OC to adapt practices that are respectful to Polynesian cultural traditions. With regard to culturally respectful practice, the application of Family Group Conferencing to Native Hawaiians is highly appropriate. Traditionally, Native Hawaiians have relied on the family group to resolve problems and maintain balance within the family and community. For instance, the practice of Hoʻoponopono (“to set right”), which is a traditional Native Hawaiian intervention that involves gathering family members and other community members to resolve problems (Mokuau, 2002, p. S85), is a cultural practice that closely parallels FGC.

Effective Planning and Innovative Communication (EPIC), the nonprofit organization responsible for administering the ‘Ohana Conferencing Program for the State of Hawaii, has adopted the following mission statement: “EPIC transforms the culture of child welfare practice through a respectful, collaborative, solution-oriented process that protects children, strengthens families, and enhances the health of the
community.” This concise mission statement clearly articulates the program theory of OC and embraces the core values of FGC. Evaluative research on OC indicates that the program is functioning according to the FGC model and appears to be having a positive influence on child welfare practice in Hawaii. In a review of their preliminary findings from a federally mandated survey of state’s child welfare programs, representatives from the Children’s Bureau commented on OC as a positive development in Hawaii’s child protection program no less than six times. At the same time, the representatives described numerous deficiencies such as large caseloads, compartmentalization of services and inadequate responses to families in the system. Indeed, of the few laudatory comments made by the surveyors, most emphasized the OC program. These observations are consistent with the evaluative research on OC, which has also been quite favorable.

McGlone (2001) conducted a multi-method program evaluation utilizing both survey data and qualitative interviews. Among the 24 study participants, all of whom were child protection workers that had participated in OC, there was overwhelming satisfaction and support of OC. The study concluded that OC appeared to improve relationships between child protection workers and families and facilitated the creation of mutually acceptable treatment plans. In addition to beneficial aspects of OC, participants were asked to identify aspects of OC that hindered workers from recommending it to their clients. In response, workers identified conflicts between family plans and agency policies, negative appraisals of families, time and workload constraints and issues related to control.

In relation to control issues, respondents suggested that some social workers would not utilize OC because they were unwilling to share decision-making powers with
abusive families. Participants also described the difficult and uncomfortable position they initially faced when engaging the family system. These findings suggest that engaging in OC entails a realignment of power from the social worker to the family. The findings also suggest that, at least initially, the realignment of power is a source of discomfort among child protection workers.

The National Council of Juvenile and Family Court Judges (NCJFCJ, 2003) conducted a fairly comprehensive program evaluation of OC. Drawing from a variety of data sources, including interviews, participant exit surveys, previous evaluative research and on-site interviews, NCJFCJ (2003) has compiled an overview of the OC program and highlighted major findings from previous evaluative studies. This evaluation was concerned with both model fidelity and program outcomes. Overall, the evaluation indicated that the program was functioning in accordance with common FGC principles and adhering to its own program design. More importantly, the program objectives of OC were consistently being met. The NCJFCJ evaluation concluded that OC had resulted in high participant satisfaction, successful plan formulation and diversion from family court.

Walker (2003) conducted the most recent program evaluation of OC. Using a non-concurrent cohort design consisting of 33 CPS cases that used OC and 27 cases that did not participate in OC, Walker evaluated the following outcomes: length of time children received CPS services; number of court hearing per child; number of out-of-home placements with relatives; number of foster placements per child; number of prior CPS reports; and overall participant satisfaction with CPS. Walker’s evaluation found significant difference between the outcomes of OC participants and those receiving
traditional CPS services. The OC cases were closed nearly twice as quickly as those receiving traditional services, OC cases had fewer court hearings, fewer foster home and emergency shelter placements, and were less likely to have permanent custody awarded to the state. Overall, those who participated in OC were far more satisfied with CPS when compared to those receiving traditional services.

OC did not seem to affect the rate of kinship placements. The author attributed this to the fact that all cases in the study had voluntarily accepted CPS intervention and admitted that abuse or neglect were present, thus, the author concluded, extended family placements were a likely outcome for all of the cases regardless of the decision-making process. The author also found that OC cases had significantly fewer reports of previous CPS cases than did the comparison group. Thus, it appears that chronicity is a factor in CPS workers' decisions to recommend OC. When Walker controlled for the number of previous reports by removing cases with low numbers of previous reports from the analysis, the groups' differences diminished; however, Walker did not report the changes in effect sizes, so no conclusions can be drawn.

Since its inception more than 2000 OC have been conducted, and 97% of those conferences have resulted in acceptable intervention plans (Walker, 2003). In fiscal year 2002, 545 OC took place serving 406 families. Fifty-eight of the OC in 2002 facilitated permanent guardianship or adoption (Child & Family Services Plan, 2002).

In many ways, Hawaii's child protection system suffers from the dilemmas and ambiguities described throughout this paper; thus, the presence of a statewide FGC program that has closely adhered to values and principles described earlier make it an ideal setting to explore the transformational qualities of the FGC model. The OC
program has incorporated the values and practice principles of FGC into a specialized service delivery program, which has gained widespread acceptance among Hawaii’s child welfare professionals, judiciary, and political authorities.

The Present Study

This chapter has traced the evolution of modern child welfare practice and highlighted a number of ideological and structural imbalances within the existing child protection system. It also provided empirical and theoretical support for expanding the role of extended family members in child protection practice. The literature reviewed in this chapter has lead to a number of propositions that emerged either implicitly or explicitly and in turn lead to the creation of several testable hypotheses.

Theoretical Propositions

First it was proposed that two aspects of the social response to child abuse, moral ambiguity and social inequalities, creates barriers that present formidable challenges to the efficacious use of autocratic decision-making processes in child protection. Drawing from social exchange theory, it was proposed that the cohesive effects of negotiated exchanges are better suited to child protection decision-making processes than are autocratic or non-participatory decision-making processes. Specifically, exchanges that rely solely on coercion are ill-suited to child protection and may ultimately do more harm than good.

A review of the social exchange and procedural justice literature lead to the supposition that participatory decision-making processes will lead to a greater personal investment in the outcome of the exchange. It was also proposed that CPS clients would view CPS intervention as legitimate when outcomes are derived from dialogic processes.
Last, it was proposed that the responsive and empowering qualities of FGC will lead participants to evaluate CPS decision-making as procedurally just, which will, in turn, lead to greater satisfaction and compliance with the case plans and CPS in general. Figure II is a conceptual model linking the aforementioned propositions.

Figure II. Participatory decision-making model in child protection.

Neff (2003)
Study Hypotheses

The following hypotheses have been devised to test the proposed model for achieving justice through FGC.

H1. FGC participants are more likely to evaluate their interactions with CPS as being procedurally just than CPS clients who have not participated in FGC.

H2. FGC participation will reduce perceptions that CPS intervention is motivated by bias or based on erroneous allegations.

H3. FGC participants will perceive the involvement of the child protection agency as being legitimate more often than those receiving traditional child protective services do.

H4. The overall satisfaction with CPS will be greater among FGC participants than for families receiving traditional CPS services.

As defined earlier in this paper, legitimacy refers to a “…property of an authority or institution that leads people to feel that that authority or institution is entitled to be deferred to and obeyed.” (Tyler, 2003, p. 514). Ambiguity refers to the amorphous nature of child abuse and the consequent confusion and resistance on behalf of those affected by abuse when social institutions respond to the problem. Procedural fairness refers to peoples’ subjective appraisal of how fairly they are treated in an allocative process. Satisfaction refers to peoples’ subjective appraisals as to the quality of services being afforded them.
CHAPTER II

METHODS

Initially, this study was proposed as a quasi-experimental design employing a pre and post test with comparison groups. As the study proceeded, a number of limitations emerged or were imposed by local child welfare authorities. From the beginning of the study, recruitment proved problematic. Despite support from supervisory staff and assurances from case managers themselves, it was very difficult to persuade CPS case managers to refer clients to the study. Case managers had to be constantly reminded of the project and the need for referrals. Even after being repeatedly reminded, case managers referred few clients. Additionally, Hawaii state law prohibits the release of information on child welfare clients who are under the family court’s jurisdiction without the express consent of the presiding judge. The family court declined to give consent for clients within its jurisdiction to participate in this study. These developments limited the pool of potential participants to only those clients who voluntarily participated in CPS service.

Participants

At the onset of this project, one CPS unit and EPIC were identified to provide referrals to this study; however due to a slow pace of recruitment, an additional CPS unit was asked to contribute referrals. Even after engaging a second unit, referrals were sporadic despite continued reassurances from the CPS administration that they were supportive of the research. Ultimately, CPS provided a list of voluntary clients and two CPS practicum students were paid to solicit participation. Nearly two-thirds of the clients
on the list provided by CPS had erroneous or outdated contact information. In total there were 33 participants representing three groups of clients. Fifteen clients were surveyed before and after they participated in an OC, 10 were surveyed after the OC, and eight who had not had an OC were also surveyed. On average, clients were surveyed within 10 weeks of first being contacted by CPS regarding their present cases.

Socio-Demographic Profile of Participants

The majority (60%) of clients in this study identified themselves as Hawaiian or part Hawaiian, which exceeds the percentage of Hawaiians seen in the overall state CPS system (42%). The over representation of Hawaiians in this study can be traced to the source of referrals and the trends in utilization of OC. The units that have traditionally embraced OC, and from whence many of the referrals for this study came, service geographic areas with high concentrations of Hawaiian and part-Hawaiian people. The next largest ethnic groups in this study (15%) were of Filipino descent. The sample was overwhelmingly female (82%). The mean age of the respondents was 28 years old. Eighty-four percent of the respondents reported a monthly household income of less than $2,000. Nearly half of the respondents reported monthly household incomes less than $1,500, with 33% of those reporting a monthly household income of less than $1000. Sixty-eight percent of the respondents reported having a high school education or its equivalent. Nearly half (48%) of the clients surveyed in this study had cases previously with CPS for child abuse or neglect, and more than half (57%) of the clients had one, or more, children living outside of the home.
Materials

Quantitative Materials

The questionnaire (see Appendix A) for this study is based on one, used by Sunshine & Tyler (2003), to study the antecedents of citizens’ legitimization of New York City police officers. Sunshine and Tyler’s survey includes scales to measure legitimization (alpha .94; mean 3.9; s.d. .97)\(^5\), distributive justice (alpha .76; mean 3.4, s.d. 1.04), and procedural justice (alpha=.96; mean 3.61; s.d. 1.18).

The items on Sunshine and Taylor’s survey were reworded to reflect individuals’ perceptions of CPS workers rather than police officers. Items that were not relevant to child protection were deleted from the instrument. Additional items were added to the survey to examine clients’ satisfaction (alpha=.92, mean 3.48; s.d. 5.24), perceptions of ambiguity (alpha .70; .046; s.d. 3.80) regarding the child abuse incident and their perceptions that CPS involvement was motivated by economic or racial bias (alpha .62, mean 4.31; s.d.4.86). The low alpha coefficient and a lack of variability on responses associated with the bias scale indicated that it was not a reliable measure and they were subsequently omitted from further analyses. Table III, delineates the specific items that relate to each of the constructs being measured.

Qualitative Material

The qualitative portion of this study relied on semi-structured interviews that were guided by several broad questions. Because of the strong theoretical grounding of this study, the questions were intentionally written to be fairly general (Appendix B). The use

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\(^5\) The reliability coefficients reported in relation to Sunshine & Tyler’s (2003) survey are from their own data. The reliability coefficients reported for the satisfaction, ambiguity and bias scales were calculated using the data from the present study. The small sample size coupled with the number of items in Sunshine and Tyler’s scale precluded calculating reliability coefficients using the data from the present study.
of very general questions was done to avoid leading respondents to the investigator's *a priori* conclusions. To avoid bias related to the presence of an *a priori* theoretical model and a set of hypotheses, the questions were structured to gather a wide range of experiences while minimally influencing the interviewees to respond according to the hypothesized relationships.

Procedures

*Quantitative Procedures*

After agreeing to participate in the study, each participant was contacted by the investigator and apprised of the purpose and nature of the survey and the associated risks and benefits related to participation. Clients were then asked for verbal consent to conduct the survey. After receiving consent, the clients were asked to complete a questionnaire (see Appendix A) that was administered verbally over the telephone or in person, depending on the circumstances. Participants were given a $10.00 gift certificate as compensation for the completion of the survey.

Pre-tests were administered before the client had an OC and post-test were administered within 3-4 weeks after the OC. Participants, who did not have an OC, were given a post-test sometime after a case plan had been established by CPS. The amount of time that had elapsed before receiving the survey varied among the members in this group; however most had their service plans developed within several weeks of the interview. All of the participants in the study had open CPS cases at the time of the survey.

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6 Per approval from the University of Hawaii Human Use Committee, informed consent was obtained either verbally or in writing depending on the setting of the interview. Additionally, clients referred from CPS signed a "release of information" form granting the investigator permission to conduct the survey/interview. (See Appendix C)
Survey responses were scored using effect coding. Where applicable, "don’t know" responses were coded as zero. Unfavorable responses were coded using negative numbers. Responses were entered into a statistical database (SPSS 10.0) and summed for analysis as they were completed. Once all the data were gathered for each participant, his or her name and other identifying information was replaced with numeric identifiers and deleted from the database to protect confidentiality. Data for this study were gathered from November 2003 through June 2004. The collection of data was halted when it was determined that no further referrals would come from CPS or EPIC.

**Qualitative Procedures**

Throughout the survey process comments were solicited from clients regarding their experiences with CPS and OC. When it became apparent that the overall sample size was going to be smaller than initially anticipated, a more structured qualitative inquiry was added to the study. This was done to help substantiate the quantitative data and to provide a contextual understanding of peoples' experiences with OC and CPS that would not have been revealed through survey responses.

A purposive sample of clients was selected for the qualitative interviews. According to Strauss and Corbin (1998, p.293) the size of the sample in qualitative studies may be determined by the nature of the data emerging from the interviews. A sample is sufficiently large when little or no new theoretically relevant themes emerge from the data. This is a phenomenon that Strauss and Corbin (1998) refer to as theoretical saturation. Theoretical saturation occurred rather quickly in this study, thus, the qualitative sample was limited to nine participants.
OC clients were recruited for the qualitative interviews to provide a broad range of experiences. Thus, those who reported positive and negative experiences with CPS during the administration of the surveys were sought out for qualitative interviews. Among those clients asked to participate in the qualitative interviews, none demurred.

After agreeing to participate in the qualitative portion of the study, arrangements were made to conduct the interviews. Interviews were conducted in a variety of settings including clients’ homes, public buildings, and at the site of the OC. Interviewees were given an additional $10 gift certificate. The interviews were recorded and transcribed verbatim. Two clients expressed a preference for telephonic interviews and were not recorded. These interviews were reconstructed from notes taken during the telephonic interviews.

Analysis

**Analysis of Quantitative Data**

Statistical analyses were conducted using one-way analysis of variance and t-tests. Cohen’s d was calculated as a measure of effect size for all statistically significant t-test results\(^7\). The analysis was conducted in a series of steps. First, group similarities with regard to socio-demographic and previous CPS involvement were examined using one-way ANOVA and Crosstabulations. The next step in the analysis was to determine that OC was associated with a change in clients’ perceptions of procedural fairness, ambiguity, legitimization of CPS and satisfaction with CPS. To test this, a paired samples t-test between the pre and post-test scores was conducted for the treatment group. Next the internal validity the study was explored by examining a variety of group differences.

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\(^7\) Paired samples t-test (Cohen’s \(d = d = M_1 - M_2 / \sigma_{pooled}\)); Independent samples t-test Cohen’s \(d = 2t / \sqrt{df}\)

Interpretation of effect size— (.8=large effect; .5=medium effect; .2=small effect)
Independent samples t-tests\textsuperscript{8} were used for this analysis. The last step in the analysis was to test the study's hypotheses by examining group differences between those having attended OC and those who did not attend OC. Again, independent samples t-tests were used in this analysis.

\textit{Analysis of Qualitative Data}

The qualitative interviews were recorded and transcribed verbatim. Two of the interviews were not recorded in this manner, because the clients expressed a preference to conduct the interviews over the telephone. The two interviews were reconstructed from copious notes taken during the interview. Coding was accomplished using a combination of open and axial coding. Using this technique, interviews were first coded in great detail, leading to the identification of an array of categories. Second, the categories were examined to determine the frequency with which they occurred, evaluate the similarities among categories and establish conceptual connections between the identified categories.

\textsuperscript{8} Leven's test for homogeneity of variance was conducted for each of the independent samples t-tests.
CHAPTER III

RESULTS

Quantitative Results

Group differences considering socio-economic variables were examined using a one-way analysis of variance. Group membership for three groups, pre/post-test group; post-test only group; and no-OC comparison group, was entered as the independent variable and age, educational level, monthly household income and the number of previous cases with CPS were entered as outcome variables. Group differences between the pre and post-test groups were not significant for any of the demographic variables. Ethnicity was examined using Crosstabulations, and was not significantly different among the study groups, $\chi^2 (10, N = 33) = 13.88, p = .18$. So, despite the lack of randomization, three different groups were roughly matched on socio-economic factors. Group differences in socio-demographic composition probably had no main effect on the observed outcomes.

Table III
ANOVA statistics for demographic characteristics of groups

<table>
<thead>
<tr>
<th>Demographic Variable</th>
<th>M (SD) Pre/Post-Test</th>
<th>Post-Test Only</th>
<th>Comparison</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>26.9 (3.4)</td>
<td>29.5 (6.3)</td>
<td>30.4 (9.0)</td>
</tr>
<tr>
<td>Education Level</td>
<td>12.5 (1.1)</td>
<td>12.1 (2.1)</td>
<td>12.8 (1.4)</td>
</tr>
<tr>
<td>Monthly Income</td>
<td>1408.3 (735.6)</td>
<td>1491.5 (932.0)</td>
<td>1587.5 (619.8)</td>
</tr>
<tr>
<td>Previous Cases</td>
<td>.47 (.83)</td>
<td>.40 (.51)</td>
<td>.88 (1.36)</td>
</tr>
</tbody>
</table>

The next step in the analysis was to examine the main effects of OC by comparing the mean differences between the pre-test and post-test scores for the treatment group using a paired samples t-test (see Table IV). The results indicate that there were significant differences between the pre and post-test survey results regarding satisfaction
with CPS $t(14) = 2.911, p < .01, d=.67$, ambiguous feelings about the nature of the abuse or neglect allegations and CPS involvement $t(14) = 5.104, p < .001, d=1.19$, perceptions of procedural fairness $t(14) = 2.524, p < .05, d=1.20$ and legitimization of CPS $t(14) = 4.268, p < .001, d=1.28$. Improvements in client satisfaction, ambiguous feelings, perceptions of procedural fairness, and legitimization of CPS were observed in comparisons of pre-test and post-test results. Furthermore, all of these dimensions except satisfaction achieved large effect sizes ($d$). The effect size of satisfaction ($d=.67$) is still considered to be a medium sized effect.

**TABLE IV**
Comparison of Pre-test and Post-test groups

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>M Pre-test</th>
<th>M Post-test</th>
<th>t</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfaction</td>
<td>.67</td>
<td>4.13</td>
<td><strong>2.91</strong></td>
</tr>
<tr>
<td>Ambiguity</td>
<td>-2.67</td>
<td>1.46</td>
<td><strong>5.10</strong></td>
</tr>
<tr>
<td>Procedural Fairness</td>
<td>6.93</td>
<td>20.33</td>
<td>*2.52</td>
</tr>
<tr>
<td>Legitimacy</td>
<td>.33</td>
<td>5.93</td>
<td><strong>4.27</strong></td>
</tr>
</tbody>
</table>

* $p < .01$
** $p < .001$

Note: One-tailed

The next two steps in the analysis were aimed at attempting to demonstrate the internal validity of these results. First, the mean differences between the pre-test scores and the comparison group were tested to examine the internal validity of the study with respect to history or maturation (see Table V). If there were significant differences, they might have been attributed to these factors which could be seen to confound the observed pre and post-test differences. There were no significant differences observed between these groups, suggesting that neither history nor maturation significantly influenced the pre and post-test outcomes for the treatment group as observed above.
TABLE V
Comparison of Pre-test and Comparison groups

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>M Pre-test</th>
<th>M Comparison</th>
<th>t</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfaction</td>
<td>.67</td>
<td>-1.00</td>
<td>.70</td>
</tr>
<tr>
<td>Ambiguity</td>
<td>-2.67</td>
<td>-2.25</td>
<td>-.27</td>
</tr>
<tr>
<td>Procedural Fairness</td>
<td>6.93</td>
<td>1.88</td>
<td>.70</td>
</tr>
<tr>
<td>Legitimacy</td>
<td>.33</td>
<td>-.25</td>
<td>.27</td>
</tr>
</tbody>
</table>

Note: One-tailed

Second, the mean differences between the pre-test group and the post-test only group were tested to rule out possible measurement effects (see Table VI). In this analysis, the post-test only groups' scores were effectively substituted for the post-test of the pre-tested group. Significant findings for all of the variables suggest that testing or maturation did not markedly compromise the internal validity of this study.

Table VI
Comparison of Pre-test and Post-test only groups

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>M Pre-test</th>
<th>M Post-Only</th>
<th>t</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfaction</td>
<td>.67</td>
<td>5.40</td>
<td>**2.40</td>
</tr>
<tr>
<td>Ambiguity</td>
<td>-2.67</td>
<td>.50</td>
<td>*2.11</td>
</tr>
<tr>
<td>Procedural Fairness</td>
<td>6.93</td>
<td>17.70</td>
<td>*1.73</td>
</tr>
<tr>
<td>Legitimacy</td>
<td>.33</td>
<td>4.50</td>
<td>*2.24</td>
</tr>
</tbody>
</table>

* p < .05
** p < .01
*** p < .001
Note: One-tailed

The last step in the quantitative analysis was to further test the study's hypotheses. Using an independent samples t-test, the means of the combined and summed post-test scores for the treatment groups were compared with those of the comparison group (see Table VII). The first hypothesis stated that FGC participants would be more likely to evaluate their interactions with CPS as being procedurally just than CPS clients who had...
not participated in FGC. The t-test failed to reject this hypothesis. Those attending OC had significantly higher scores on the scales for procedural justice \((M = 19.28, SD 12.78)\) than did those in the comparison group \((M = 1.88, SD 18.42)\), \(t(31) = 3.01, p = .01, d = 1.08\). The magnitude of the differences was both significant and moderately large.

The second hypothesis stated that FGC participation would lead to reduced perceptions that CPS intervention was motivated by bias and erroneous allegations. As reported earlier, the dubious validity and reliability of the bias scale necessitated its removal from the analysis. However, with regard to ambiguity regarding the nature of CPS allegations and clients' involvement, significant improvements attributable to FGC participation were evident. Ambiguity among those in the post-test treatment group \((M = 1.08, SD 3.73)\) was significant and was moderately higher than those in the comparison group \((M = -2.25, SD 3.73)\), \(t(31) = 2.198, p = .05, d = .79\).

The third hypothesis, which asserted that legitimization would be greater among FGC participants than non-participants, was also supported. Those in the treatment group reported a higher level of legitimization for CPS \((M = 2.64, SD 3.57)\) than did those in the comparison group \((M = -1.37, SD 3.58)\), \(t(31) = 2.77, p = .01, d = .99\).

Last, satisfaction was considered. According to hypothesis four, satisfaction with CPS services would be greater among those in the treatment group than it would be for those in the comparison group. This prediction was supported by the data. Members of the treatment group reported significantly higher levels of satisfaction \((M = 4.64, SD 4.45)\) than did those in the comparison group \((M = -1.00, SD 5.65)\), \(t(31) = 2.92, p = .01, d = 1.05\).
TABLE VII  
Comparison of combined Post-test (Intervention) and Comparison (No Intervention) groups

<table>
<thead>
<tr>
<th>Outcomes</th>
<th>M Post-test</th>
<th>M Comparison</th>
<th>t</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfaction</td>
<td>4.64</td>
<td>-1.00</td>
<td>**2.92</td>
</tr>
<tr>
<td>Ambiguity</td>
<td>1.08</td>
<td>-2.25</td>
<td>*2.20</td>
</tr>
<tr>
<td>Procedural Fairness</td>
<td>19.28</td>
<td>1.87</td>
<td>*3.01</td>
</tr>
<tr>
<td>Legitimacy</td>
<td>5.35</td>
<td>-.25</td>
<td>***3.30</td>
</tr>
</tbody>
</table>

* p < .05  
** p < .01  
*** p < .001

Note: One-tailed

Qualitative Results

As stated earlier, the qualitative interviews were transcribed and coded. What follows is a summary of the major themes that emerged from the interviews. Excerpts from the interviews are also presented to illuminate the analysis.

Representativeness

The ability for interviewees to influence the case planning process through active participation was a key theme in their own evaluations of the Ohana Conference. In instances where clients felt they had little or no influence during the OC, the conference was commonly described in unfavorable or ambivalent terms. These findings are consistent with previous research, which has demonstrated the importance of representativeness in people’s evaluations of procedural fairness (Thibaut and Walker 1975, p. 121; Pruitt et al., 1993). Clients had pre-conceived expectations as to the level of

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9 Standard spelling was used in the transcription of interviews; however, colloquial pronunciations of many words in Hawaii vary from standard English.
influence they would have during the OC, and when those expectations were not met, frustration was evident:

I went to my sister’s conference before I had my own. You know she had one baby that was real premature, and they said she couldn’t take care of it. She was real young and the father was too. So she had a conference, but I don’t know why, because they planned to take her baby no matter what. So, her conference wasn’t too good. My mom went too, and when I told her that I was going to have one she was like: ‘why you wanna do that?’ But mine was different. They listened to us and it turned out pretty good—considering.

Another client described her frustration about the selection of participants, which set the stage for the conference. In general, this interviewee did not have a high opinion of her conference. She stated:

I didn’t have any say in who came to the conference. They had my ex come, and he never had anything to do with my son. He was a big part of the problem. He had a restraining order on him before, and, you know, he was like real abusive to me. They let him come anyway. They listened to him more than to me. I told them he shouldn’t be there, but they just didn’t listen. Its like they had already made up their minds, and that was it. Now look, he’s in jail and here I am.

This client’s response suggests that appraisals of representativeness are not confined solely to the process of developing a service plan, but to the entire conduct of the FGC. As indicated earlier in this paper, Leventhal (1980) argued
that procedural justice rules can be applied in various combinations to various elements of a procedure. In this instance, the “selection of agents” element was one that was evaluated using the representation rule of procedural justice. Here a perceived lack of voice during the coordination of the conference appears to have had a generalized effect on events in later stages of the process. Conversely, when clients perceived their involvement in the FGC as meaningful, their appraisals of the conferences and CPS in general were more apt to be favorable. Considering the disadvantages faced by many of the respondents, particularly those of Hawaiian ancestry, representativeness is a particularly salient aspect of procedural appraisals.

**Quality of Therapeutic Relationships**

The most common theme to emerge throughout the qualitative interviews, centered on the quality of the relationships between CPS workers, and their clients. Consistently, study participants stressed the importance of the client-worker relationship. Parents often evaluated worker quality based on their responsiveness, honesty and demeanor. The importance of the therapeutic relationship was alluded to frequently in both the formal qualitative interviews and in informal conversations with participants during the administration of the quantitative surveys.

Clients consistently interrupted survey interviews to describe their interactions with case managers by interjecting anecdotes about their interactions with their case managers to clarify their survey responses. For example, a respondent would often say “not my worker” or “my first worker did” when responding to a survey question. The
qualitative interviews help to clarify the importance of establishing a positive, therapeutic relationship between client and worker. One interviewee stated:

It all depends on the worker. We had a case worker that never told us nothing. She never called or answered our calls. We didn’t know what was going on. Then we got another case manager, and she was great. You can tell that she really cares about us.

Another interviewee described the impact that disagreeing with her worker had on their relationship and the subsequent influence that it had on her services. “Our case worker didn’t like it that we disagreed with her, so she got nasty with us. It was like she was out to get us, but after she left things got a lot better. Our new case worker is really trying to help us.”

It was quite common for study participants to describe having more than one case worker in their present case. Several participants also made comparisons to previous cases that they had with CPS. Throughout the interviews, the client-worker relationship appeared as a mediating factor in clients’ evaluation of procedural fairness and their satisfaction with CPS.

Procedural Preference

Many clients also described the alternatives to holding OC. Among those clients that drew these comparisons, they frequently expressed a hesitancy to go to court and a preference for the more informal procedures of family conferences. Family court was commonly viewed with uncertainty and fear among the interviewees. One client made reference to a previous encounter with family court: “It [the OC] was a little scary, but not like going to court. I went to court and I was baffled. I didn’t know what was going
on and I was really scared. The EPIC people were nice and took time to explain what was going on, so it is way better than going to court. At least it was for me.”

Another client described the fear of placing control of the decision making process with a third party:

They told me I could sign the voluntary paper and have the Ohana Conference or I would have to go to court. I didn’t want to go to court. You know, when you go to court anything can happen, because the judge makes all of the decisions. It doesn’t even matter what you or even the case manager thinks, because the judge can do what he wants. So I signed the paper and I think it went pretty good. No one ever wants to be in CPS, but it turned out pretty good—it could have been a lot worse—I guess.

Clients appear to value the opportunity to negotiate directly with the principals of the case such as the CPS caseworker and other family members rather than entrusting decision making authority to a third party.

Confrontation

As asserted earlier in this paper, FGC appears to have the potential to lead families to reveal, rediscover, or reinvent family roles, responsibilities and capacities for self-sufficiency. Qualitative interviews support this assertion. A common theme in the interviews described this aspect of FGC. Clients often described feelings of shame and fearfulness at the prospect of their family member learning the details of their case, but most often clients described the outcome in positive terms. One client described it like this:
My family didn’t really know what was going on, and I was kind of afraid of them finding out. But when they all knew what was going on, it was kind of a relief. I was surprised, because they were really supportive and wanted to help me. I thought they would be more like angry, but they weren’t.

Although not specifically included in the quantitative portion of this study, clients repeatedly describe feelings of shame associated with their interactions during OC. However, the shame experienced by the interviewees appeared to have had beneficial effects. The shame associated with facing their friends and families has also been described as an important feature of restorative justice (Braithwaite, 1989). Clients described this as a motivating factor in their decisions to change their behavior. One client put it this way, “I was messed up—you know I couldn’t see straight. They sat me down and told me the way it was. I needed that, because I wasn’t seeing it before. It was like I was blind. It really helped me to get clean and get my life together.”

Another client described her shame at seeing her daughter thrive in an out-of-home placement. She stated, “They told me how well my daughter was doing with her auntie, and I felt embarrassed. I thought, ‘why couldn’t I do that for her?’ You know—I’m her mother. It really hurt me, but I needed to hear that—I needed to see that.”

The trend in these responses bring to mind an aspect of Ho ‘oponopono which is known as ‘oia ‘i‘o and refers to the need for the truth to be told—no matter how difficult (Nishimura, 1978), and among the cases studied here, hearing the difficult truths appeared to have a healing effect.
Accuracy

Nearly all of the Ohana conference participants favorably described the value of having the case information presented and clarified during their meetings. Participants were very enthusiastic about this particular aspect of OC. One interviewee reported that until he heard the case manager relate all of the facts of his case and a previous case, he did not see the seriousness of the matter. After having the facts presented to him by multiple sources he realized that he had indeed been abusive and needed to change his behavior. Other interviewees described how it was the first opportunity they had to hear and respond to the information from which CPS was basing their actions. Clients referred to this aspect of the conferences as “laying it out in the open” and “telling us what was going on.” Along these same lines, clients also described frustration at the difficulties they experience in making regular contact with their case managers; OC appears to be a good means to quickly and accurately convey the state’s position and requirements to clients.

Cultural Appropriateness

The majority of interviewees were of Hawaiian ancestry, yet few made direct references to their cultural values and heritage in relation to the OC, despite direct questioning regarding the cultural appropriateness of OC. The most common theme to emerge when questioned about cultural appropriateness was the level of cohesion within the client’s families of origin. For example, three clients indicated that their families were not close when asked about the cultural appropriateness of FGC. Another described being raised on the mainland by his mother who was not Hawaiian, and not really knowing much about his cultural heritage or practices.
One client described her Hawaiian heritage when discussing her participation in the conference. When asked specifically about the culture appropriateness of OC, she reported that she had been very vocal at her conferences and felt comfortable confronting what she believed to be inaccuracies in the CPS case information. She stated, “Yeah, I went Hawaiian on them. Everything that was wrong, I went told them.”

Another client compared the OC to the practice of Ho’oponopno, which was mentioned above. When asked about the cultural appropriateness of OC, she replied, “It was good. It was kind of like Ho’oponopno. You know, where all the kapuna (elders) get together and help fix one problem. Right?” Indeed, the similarities between Ho’oponopno, which has also been used in child welfare (Trotter, 2002), and FGC are considerable and fortuitous given the disproportionate representation of Hawaiians in child welfare system.

Although interviewees did not typically articulate the cultural relevance of OC, they did, however, make frequent references to important values associated Hawaiian culture when discussing their involvement with CPS and their OC. The most prominent culturally relevant themes to emerge from the interviews centered around three important aspects of Hawaiian culture: family (ohana), helping others (kokua) and the responsibility of family members to solve family problems and help one another (kuleana). The instrumental importance of these values among Hawaiian people facing adversity has been described in other contexts, such as coping with illness (Braun, Mokuau, Hunt, and Kaanoi, 2002).

The importance of the client-worker relationship that was described above may also be a manifestation of cultural values. According to Mokuau (1990) there is a good
deal of importance attributed to the client-worker relationship among Hawaiians, and the interviews seem to support this notion. This aspect of Hawaiian culture was evident throughout the interviews. As stated earlier, the client-worker relationship was the most common theme to emerge during the interviews and in informal discussions with OC clients.

Another aspect of the interviews that supports the notion that OC is a culturally appropriate means of decision making is the ability and willingness for families to make decisions. The self-determination of the family is an important value among Hawaiian people (Ewalt & Mokuau, 1995) and even though many of the interviewees indicated that their families were not close, they all were able to reach a decision in the OC. In addition, in those cases where out-of-home placement were indicated, the placements were with kin or close personal friends. Typically, children, when in placements, remained in the community near their parents. Although clients did not tend to make direct references to their cultural heritage, themes did emerge that support the cultural appropriateness of OC.

Bias Suppression

The vast majority of participants expressed satisfaction with the quality of the facilitators and coordinators of the OC. Most clients felt that their conference facilitators were unbiased and helped to maintain the focus of the conference on helping the children. One client stated, “[She] was great. She was totally neutral, and she stood up for us when things got away from the point of the meeting—you know doing what’s best for the kids. She didn’t just get on the side of [our case manager], she really was fair. We are supposed to have another [conference] and I hope we get her again.” Most of the clients voiced similar sentiments about the quality of their conferences facilitators.
CHAPTER IV

DISCUSSION

Limitations of the Study

The greatest weakness of this study rests with the sampling technique and the small size of the sample. Most of the participants were clustered within a small, economically disadvantaged community on the Leeward coast of Oahu. The majority of the participants identified themselves as Hawaiian or part Hawaiian. The relatively homogenous sample precludes making any kind of generalizations regarding these findings. Moreover, the importance of family self-determination and self-help are cultural values that are not limited to Native Hawaiian families, but permeate Asian and Pacific Island cultures in general (Kagawa-Singer, 2001). Considering the overwhelming representation of Asian-American and Pacific Islanders in this study, the marked improvements found between the treatment and comparison groups in this investigation may be a reflection of the suitability of FGC to Asian-American and Pacific Island communities in particular. The replication of these findings may be difficult to achieve when using communities with different ethnic compositions. Sundell and Vinnerljung (2003) also cited this possibility as a reason that their own study comparing outcomes among Sweden’s FGC participants and recipients of traditional CPS services did not prove significant. FGC may have differential effects on its participants according to their cultural values.

Utilizing a self-selected, convenience sample greatly increases the odds of introducing selection bias into the sample. However, the presence of a pretest and
comparison groups and the inclusion of qualitative data facilitate the interpretation and utility of the findings. Similarities between the treatment groups and the comparison groups were determined using demographic data and survey scores. There appears to be no systematic difference between who does and does not get referred to OC. Despite the small sample size, there were no significant differences between the groups regarding relevant socio-demographic characteristics. This finding supports the notion that there are no selection effects related to OC referrals or in the recruitment of subjects for this study. This finding does not support those of Walker (2003) who found that OC participants tended to have more previous cases than did clients who did not participate in OC.

Also, when considered along with the minuscule differences between the pre-test scores and the scores of the comparison group, these findings suggest that neither the chronicity of abusive clients nor contrarieties with CPS are factors that influence referral to OC. The similarities between these two groups add confidence that the internal validity of the study is not diminished by threats such as history or maturation. The significant differences found between the pre-test group and the post-test only group also suggest that testing and instrumentation did not have a marked effect on the internal validity of this study.

Quantitative Findings

The purpose of this study was to compare process related outcomes among CPS clients who attended and had service plans developed through Ohana Conferences, a model of Family Group Conferencing, with those who had their service plans developed using common practices. As a guide for the research, a model, principally informed by
Achieving Procedural Justice with FGC

the procedural justice, restorative justice, and family group conferencing literature, was
developed (see Figure II). Based on this model, four hypotheses were articulated:

H1. FGC participants are more likely to evaluate their interactions with CPS as
being procedurally just than CPS clients who have not participated in FGC.

H2. FGC participation will reduce perceptions that CPS intervention is motivated
by bias or based on erroneous allegations.

H3. FGC participants will perceive the involvement of the child protection agency
as being legitimate more often than those receiving traditional child protective services
do.

H4. The overall satisfaction with CPS will be greater among FGC participants
than for families receiving traditional CPS services.

As indicated in the analysis section of this paper, all of the hypotheses were
supported by the data. With the exception of satisfaction, all of the variables under study
showed large differences between those who attended OC and those who do not. In all
instances, those in the OC groups had more favorable assessments of CPS. These
findings support previous literature demonstrating that perceptions of procedurally just
treatment are associated with greater satisfaction (Braithwaite, 2002; Hunton, Hall and
Price 1998; Lind & Tyler, 1988; Musante, Gilbert, Thibaut, 1983; Thibaut and Walker,
1975) and legitimization of authorities (Sunshine & Tyler, 2003; Tyler, 2001; Tyler,
1990a; Tyler, 1990b).

According to the decision-making model presented earlier, the attainment of
procedural fairness through the use of FGC helps to neutralize ambiguous feelings about
CPS intervention and leads to greater satisfaction and legitimization and ultimately
compliance. Although the findings of this study do not establish a causal path as
proposed by the model, the model itself proved a useful tool for generating testable
Achieving Procedural Justice with FGC

hypotheses. Moreover, the findings of this study support further testing of the decision-making model.

The findings of this study support the continued use of FGC as a means of decision making in child protection settings, particularly in Hawaii. Also, the findings suggest that FGC are one means of improving child welfare practices. Specifically, FGC appear to promote several aspects of procedural justice. These findings are promising considering the limitations. It was expected that the greatest differences would occur between clients going to OC, many of whom are voluntary, and those declining OC, many of whom opt to challenge CPS in family court. An alternative analysis of the exclusive use of volunteer clients in this study is that those in the comparison group are at an even greater disadvantage than those who voluntarily submit to CPS without participating in FGC, because there are no participatory decision making processes at their disposal. Until further research is done comparing the various decision making strategies within child welfare, this issue will remain unanswered.

Among Hawaii’s child welfare clientele, it appears that it is not uncommon for parents to be excluded for the case planning process. Department of Health and Human Services (DHHS, 2003) reported the following:

The Statewide Assessment reports the results of a survey of biological parents regarding the case planning process. The findings of the survey were that only 60 percent of the parents reported being involved in the case planning process and only 50 percent stated that the case plan helped to meet the goals of safety, permanency, and well-being. Only 40 percent of the parents surveyed indicated that they were satisfied with the case plan
process. Parents in Maui were more likely to report satisfaction with the
case planning process than parents in other areas of the State.

The DHHS review did not discern how satisfaction was associated with
participatory decision making, but from the results presented here, it may be
surmised that they are probably related if not interdependent. The findings of this
study point to one remedy for the lack of parental participation and poor
satisfaction found by the federal review, that being FGC.

Qualitative Findings

As other research has demonstrated, there is a strong link between the skills used
by case workers and their clients’ level of satisfaction and the quality of case outcomes
(Trotter, 2002). One benefit of FGC is that when the model is adhered to, the quality of
services related to case planning is virtually assured. However, beyond the case planning
phase of the CPS process, FGC offer no assurances that clients will consistently receive a
high quality of services from their case managers or other treatment providers throughout
the continuum of care. The extent to which variations in the quality of services provided
outside of the OC had effected clients perceptions of fair treatment and satisfaction were
not examined in this study and most of the respondents were surveyed close to their case
openings. Consequently, the resilience of the changes detected in this study cannot be
determined, nor is it possible to determine what other factors may mediate the outcomes
observed here.

The strong connection between clients’ overall satisfaction with their conferences
and the level of the clients’ voice underscores the importance of adhering to the
principles of FGC described earlier. The dissatisfaction associated with clients’ feeling
as though their input was not valued implies that in cases where CPS has a preexisting plan and are unlikely to alter that plan, FGC are not an appropriate decision making strategy. Strictly speaking, these kinds of interventions more closely resemble case conferences traditionally used in child protection. Returning to Braithwaite’s (2002) model of responsive regulation, conferences that act as a forum for simply relaying a predetermined plan are not responsive. Instead, they are simply a change in venue where family members are assumed to be incapable of resolving protection issues. This approach presupposes that the family is not capable of resolving protection issues. Consequently their responsibility for self-sufficiency is supplanted by the state’s authority.

Although the qualitative portion of this study was added as an afterthought, the process of gathering and analyzing the qualitative data made an invaluable contribution to the findings of this study. Because many of the interviews were conducted in the client’s homes, the investigator was able to achieve an understanding of the participant’s unique circumstances that would have been impossible to achieve otherwise.

To describe many of the participants in this study as disadvantaged is an understatement of the environmental and social circumstances in which many of these clients find themselves. It is well known that many of those involved in child protection are impoverished, but viewing first hand the living situations of these clients leads to the conclusion that efforts to ameliorate child neglect and abuse in this country, unless accompanied by the provision of concrete goods and services, is not likely to have a lasting effect.
Although the clients interviewed for this study did not directly relate their environmental and social situations to their involvement with CPS, clients often described circumstances which seriously hampered their capacities to successfully negotiate the requirements set forth by CPS. Clients reported having a vast array of services prescribed by CPS, yet they often lacked the resources, such as reliable transportation or child care (for those who retained custody of their children), to comply fully with the requirements of CPS. Thus, the services intended to help often exacerbated the clients' already tenuous financial circumstances.

The disconnection between the services that are offered to families by CPS and what families can actually access and achieve may contribute to unnecessary prolonging their involvement in CPS. As the Hawaii State Auditor noted in a review of Hawaii's child welfare system, "A family's inability to follow through with service plans was repeatedly disregarded in decision-making, leading to additional, similar plans being offered and resulting in permanency planning delays." The interviews conducted in this study partially support the assertion that even when families are involved in planning, the ultimate outcome may still rely on "boilerplate" solutions; hence, services may not always be a good fit with the needs and capacities of families—even when planned through FGC.

Three aspects of clients' situations that consistently came up in interviews help to illustrate the chronic nature of their situations. Almost without fail, the clients interviewed in this study referred to the incarceration of themselves, their spouses or their boyfriends. The effects of drug abuse and dependency were also frequently alluded to in the course of interviews. Last, it was quite common for the study participants to have had
previous exposure to CPS through members of their immediate or extended families or close personal acquaintances. These trends indicate that child abuse and neglect are but one indicator of much broader community turmoil requiring more generalized interventions.

Despite the challenges facing many of the families interviewed in this study, they were still able to find suitable placements among their extended family members. These placements occurred even as many of the interviewees described a lack of closeness among their family members. This suggests, as asserted earlier in the paper, that when threatened, families have an inherent interest in self-preservation. More importantly, even in the presence of strained relations among one another, families are willing and able to provide care for each other.

As with the quantitative findings, the qualitative interviews support the idea that FGC help to resolve clients’ ambiguous feelings about the allegations of abuse made by CPS. The interviews identified OC as a key factor in helping clients’ to understand the harm and wrongfulness of their actions. Although, clients persisted that they would rather not be involved with CPS, there was a clear tendency for them to accept the consequences of their actions.

Implications for Direct and Indirect Practice

Although FGC appear to improve the experiences of those involved in CPS, they are by no means a panacea for surmounting the barriers to justice described earlier in this paper. Furthermore, the use of conferencing represents just one point along the continuum of care for abusive and potentially abusive families; FGC is not a definitive treatment, nor should they been purported to be. The ultimate success or failure of an
abusive family to change their behavior is determined by a number of factors, not the least of which is the quality of the treatment administered by case managers and service providers leading up to and beyond the FGC. However, if combined with the provision of competent, respectful and compassionate case management services and intervention services, it is very likely that a marked improvement in not only client satisfaction but also compliance will occur. These improvements may or may not ultimately result in improved outcomes for abused children and their families, but it is unlikely that FGC has a deleterious effect.

The use of FGC in child protection has been spreading, but they are not a "standard of care" within the child welfare system. The findings of this study demonstrate that FGC participation is associated with greater overall satisfaction with CPS. The findings also underscore the importance of the client-worker relationships, being forthright with information and ensuring clients have a voice in the decision making process. Indeed, these are all aspects of social work practice that can and should be aspired to regardless of the availability of an FGC program.

During the course of this investigation it was discovered that the CPS units that routinely engage in OC tend to have many more voluntary clients than do those units that do not use OC. Voluntary clients delay or avoid court appearances all together, and it would be useful to examine the potential cost avoidance that may be associated with the use of FGC in child welfare. In light of this potential, even very modest advantages in the outcomes associated with the use of FGC may prove to be of great practical significance.
Future Research

The results of this study suggest that further research based on the model presented in this paper is warranted. A more methodologically rigorous study than the one presented here would help quell lingering doubts as to the validity of the findings presented in this paper. A large scale, multi-site study of FGC, using a systematic sampling techniques and an experimental design would be helpful in responding to many of the questions which have arisen from this study.

Additionally, a greater understanding of the impact that FGC have on service compliance and outcome would be extremely useful. Although the literature reviewed in this paper provides strong support for the notion that a greater sense of procedural fairness ultimately leads to greater compliance, that assertion was not tested in this study, nor has it been examined elsewhere. Similarly, it is not known whether the improvements detected in this study would persist over time and what benefits may derive from repeated conferences. There is also no clear understanding of how the principles that underlie the FGC model may interact with the cultural values of those participating in conferences.

A careful cost analysis of FGC may also prove enlightening. Although, claims have been made that FGC are an expensive and time-consuming process, the costs avoided by keeping families out of court may prove to be substantial.
Conclusion

The findings of this study demonstrated an association between FGC in child protection with increased perceptions of procedural fairness, legitimization and satisfaction with CPS and decreased feeling of ambivalence regarding CPS involvement. The literature and findings reported in this paper support continued use of FGC in child welfare. Furthermore, these results support an expansion of this service throughout the State of Hawaii. Although OC has gained broad acceptance among Hawaii’s CPS workers, the implementation of OC has been somewhat uneven. In their review of Hawaii’s child welfare DHHS (2003) noted that, “some offices support it but there is inconsistency of its use within the offices because supervisors differ in their belief in its value.” However, reluctance to utilize FGC in CPS decision making processes does not appear to be based entirely on an objective assessment of it usefulness. These findings, along with other cited in this paper, point in quite the opposite direction.
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Appendix A. Questionnaire

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<th>Name</th>
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<td>Home Address</td>
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<td>Telephone Number</td>
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<th>Ethnicity</th>
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<td>Gender</td>
<td>Male</td>
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<tr>
<th>How many children do you have?</th>
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<tr>
<td>How many children reside in your home?</td>
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<tr>
<th>Place a check mark in the box that best describes your agreement with the following statements:</th>
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<tr>
<td>CPS makes decisions about how to handle problems in a fair way.</td>
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<td>CPS treats people fairly.</td>
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<td>CPS treats everyone in my community with fairness and respect.</td>
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<td>CPS treats everyone in my community equally.</td>
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<td>CPS accurately understands and applies the law.</td>
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<td>CPS makes decisions based on facts not their personal biases or opinions.</td>
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<th>Always</th>
<th>Almost Always</th>
<th>Sometimes</th>
<th>Don't Know</th>
<th>Almost Never</th>
<th>Never</th>
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<tr>
<th>Continue</th>
<th>Always</th>
<th>Almost Always</th>
<th>Sometimes</th>
<th>Don't Know</th>
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<td>How often does CPS give people in your community less help than they give others due to their race?</td>
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<td>People receive the outcomes they deserve under the law when they deal with CPS.</td>
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<td>CPS provides the same quality of service to people living in all areas of the state.</td>
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<td>Ethnic minorities in Hawaii receive a lower quality of service from CPS than do others.</td>
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<td>How much do you agree with the following statements?</td>
<td>Strongly Agree</td>
<td>Agree</td>
<td>Don't Know</td>
<td>Disagree</td>
<td>Strongly Disagree</td>
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<tr>
<td>Families work best when they follow the directives of CPS.</td>
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<td>Disobeying CPS is seldom justified.</td>
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<td>CPS makes fair decisions regarding:</td>
<td>Strongly Agree</td>
<td>Agree</td>
<td>Don't Know</td>
<td>Disagree</td>
<td>Strongly Disagree</td>
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<td>Who to assess for child abuse/neglect</td>
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<td>When to mandate intervention for child abuse/neglect</td>
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<td>When to remove children from homes</td>
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<td>When to terminate parental rights</td>
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<td>How much to help families with problems</td>
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</table>
To what extent do you agree with the following statements:

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
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<tbody>
<tr>
<td>CPS clearly explained the reasons for their actions.</td>
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<td>CPS gives honest explanations for their actions.</td>
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<td>CPS gives family members an opportunity to express their views before making a decision.</td>
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<td>CPS considers other's opinions when deciding what to do next.</td>
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<td>CPS takes account of family members' needs and concerns.</td>
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<td>CPS treats the family with respect and dignity</td>
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<td>CPS respects family members' rights.</td>
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<td>CPS sincerely tries to help family member with their problems.</td>
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<tr>
<td>CPS tries to find the best solutions for family member's problems.</td>
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<td>CPS treats citizens with courtesy and respect.</td>
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<td>CPS can be trusted to make decisions that are right for members of your family.</td>
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<td>Peoples' basic rights are well protected by CPS.</td>
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<td>CPS personnel are generally honest.</td>
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<td>I agree with many of the values that define what CPS stands for.</td>
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<td>Question</td>
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<td>Strongly Disagree</td>
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<td>Date of first contact with CPS (current case)</td>
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<tr>
<td>Have you had previous involvement with CPS?</td>
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<td>If so, please describe.</td>
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<td>Family's Estimated Annual Income (circle)</td>
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<td>How much school have you completed?</td>
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<td>What is your age?</td>
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Appendix B. Qualitative Interview Questions

1. Tell me about your experiences with CPS.

2. How do those experiences compare to past experiences you may have had with CPS or the way you expected things to be?

3. What did you think about your Ohana Conference?

4. What aspects of your Ohana Conference particularly helpful or unhelpful?

5. Do you think that Ohana Conferences are a good way for CPS to do things—why or why not?

6. Given your cultural background, were there aspects of your Ohana Conference that you found particularly helpful?
Appendix C. Consent Form

Agreement to Participate In
An Evaluation of CPS Decision Making Processes and Outcomes
D. Rob Neff
659 9th Ave Honolulu, Hawaii
(808) 739-9528

Project Description:

You are being asked to participate in a project to develop a better understanding of how Child Protective Services (CPS) clients perceive the decision-making processes used in creating case plans and your satisfaction with CPS and the quality of care you receive from CPS. If you agree to participate in this study you will be asked to complete a survey before and after CPS has approved a service plan for your family. The survey should take about 10 minutes to complete.

The surveys will be confidential, and only the researcher will know how you personally responded to the survey questions. Your willingness or refusal to participate in the project will have no impact on the services you are provided by CPS. Your participation is strictly voluntary and you may choose to withdraw your consent to participate at anytime during the project. When all of the data for this project have been gathered and recorded in computer program your name and other identifying information will be destroyed. Under no circumstances will your individual survey responses or case record information be shared with others.

The risks associated with participating in this project are minimal. Moreover, the completion of the questionnaire may elicit some negative feelings on your behalf. If this occurs, please feel free to discuss your responses with the principal investigator.

Although you may not benefit directly from participating in this project, other people
may. The results of this project will be provided to CPS, and they will be encouraged to adjust their practices accordingly.

Certification:

I certify that I have been told of the possible risks involved in this project. I have been given satisfactory answers to my inquiries concerning project procedures and other matters and that I have been advised that I am free to withdraw my consent and to discontinue participation in the project or activity at any time without prejudice.

I give my consent to participate in this project with the understanding that such consent does not waive any of my legal rights; nor does it release the principal investigator or the institution or any employee or agent thereof from liability for negligence.

Section IV: Signature and Contact Information

__________________________  ______________________________
Signature of Participant       Email Address

__________________________  ______________________________
Telephone Number(s)           Home Address
(If you cannot obtain satisfactory answers to your questions or have comments or complaints about your treatment in the study, contact: Committee on Human Studies, University of Hawaii, 2540 Maile Way, Honolulu, Hawaii 96822. Phone: (808) 956-5007.)
Appendix D. Operationalization of Constructs

<table>
<thead>
<tr>
<th>Procedural Fairness</th>
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<tbody>
<tr>
<td>CPS makes decisions about how to handle problems in a fair way.</td>
<td>CPS makes decisions about how to handle problems in a fair way.</td>
</tr>
<tr>
<td>CPS treats people fairly.</td>
<td>CPS makes decisions about how to handle problems in a fair way.</td>
</tr>
<tr>
<td>CPS treats everyone in my community with fairness and respect.</td>
<td>CPS treats everyone in my community with fairness and respect.</td>
</tr>
<tr>
<td>CPS treats everyone in my community equally.</td>
<td>CPS treats everyone in my community equally.</td>
</tr>
<tr>
<td>CPS accurately understands and applies the law.</td>
<td>CPS accurately understands and applies the law.</td>
</tr>
<tr>
<td>CPS makes decisions based on facts not their personal biases or opinions.</td>
<td>CPS makes decisions based on facts not their personal biases or opinions.</td>
</tr>
<tr>
<td>Who to assess for child abuse/neglect</td>
<td>Who to assess for child abuse/neglect</td>
</tr>
<tr>
<td>Which cases to open for investigation</td>
<td>Which cases to open for investigation</td>
</tr>
<tr>
<td>When to mandate intervention for child abuse/neglect</td>
<td>When to mandate intervention for child abuse/neglect</td>
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<tr>
<td>When to remove children from homes</td>
<td>When to remove children from homes</td>
</tr>
<tr>
<td>When to terminate parental rights</td>
<td>When to terminate parental rights</td>
</tr>
<tr>
<td>How much to help families with problems</td>
<td>How much to help families with problems</td>
</tr>
<tr>
<td>Clearly explain the reasons for their actions?</td>
<td>Clearly explain the reasons for their actions?</td>
</tr>
<tr>
<td>Give honest explanations for their actions?</td>
<td>Give honest explanations for their actions?</td>
</tr>
<tr>
<td>Give family members an opportunity to express their views before making a decision?</td>
<td>Give family members an opportunity to express their views before making a decision?</td>
</tr>
<tr>
<td>Consider other’s opinions when deciding what to do next?</td>
<td>Consider other’s opinions when deciding what to do next?</td>
</tr>
<tr>
<td>Take account of family members needs and concerns?</td>
<td>Take account of family members needs and concerns?</td>
</tr>
<tr>
<td>Treat the family with respect and dignity?</td>
<td>Treat the family with respect and dignity?</td>
</tr>
<tr>
<td>Respect family members rights?</td>
<td>Respect family members rights?</td>
</tr>
<tr>
<td>Sincerely try to help family member with their problems?</td>
<td>Sincerely try to help family member with their problems</td>
</tr>
<tr>
<td>Try to find the best solutions for family member’s problems</td>
<td>Try to find the best solutions for family member’s problems</td>
</tr>
<tr>
<td>CPS treats citizens with courtesy and respect?</td>
<td>CPS treats citizens with courtesy and respect?</td>
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</table>
| Legitimacy                                                                 | Families work best when they follow the directives of CPS  
Disobeying CPS is seldom justified  
CPS can be trusted to make decisions that are right for members of your family  
Peoples' basic rights are well protected by CPS  
CPS personnel are generally honest |
|--------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Distributive Fairness                                                   | How often do people receive the outcomes they deserve under the law when they deal with CPS?  
How often does CPS give people in your community less help then they give others due to their race?  
CPS does not provide the same quality of service to people living in all areas of the state.  
Ethnic minorities in Hawaii receive a lower quality of service from CPS than do others. |
| Satisfaction                                                             | I am satisfied with the efforts CPS has made.  
My family will benefit from CPS involvement.  
I would recommend CPS services to others with needs similar to my own.  
My experience with CPS has been rewarding.  
CPS cares about my children and me. |
| Moral Ambiguity                                                          | The allegations of child abuse/neglect made by CPS are accurate.  
My family needed help from CPS.  
CPS is making things appear worse than they are.  
CPS has no right to interfere with the way I raise my children. |
<table>
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<th>CPS is picking on my family.</th>
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