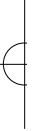
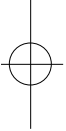
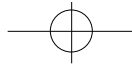


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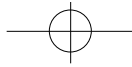
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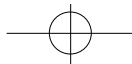


Child Maltreatment Law

*Foundations in Science,
Practice and Policy*

Roger J.R. Levesque

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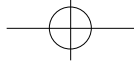


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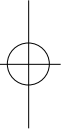
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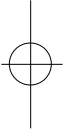
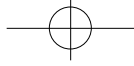
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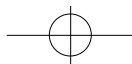
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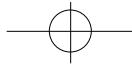




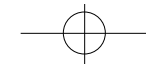


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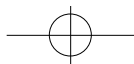
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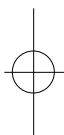
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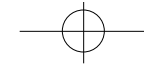
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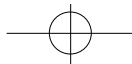




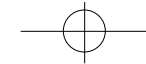
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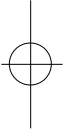
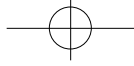
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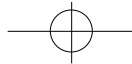
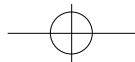


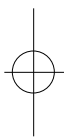
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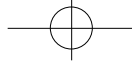
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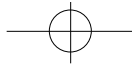


Preface

This book examines how society, researchers, and the law conceptualize and respond to child maltreatment. To do so, it provides a wide variety of cases and situations that help us understand how we view children and respond to their environments. The approach suits readers with a broad variety of interests, needs and backgrounds. I have used the materials to teach law school students as well as graduate and undergraduate (300 & 400 level) students in psychology and criminal justice. In most instances, the courses attracted students from other fields of inquiry, especially human development, family studies, political science, social work, education and journalism. While researching and teaching these materials, I have been amazed to find that numerous disciplines now seek to understand and address child maltreatment by examining legal issues. I have been equally pleased to find that those who study and operate in the legal system also now voice a need to learn from other fields of study.

That the materials we present and analyze here may be of interest to individuals from diverse fields of inquiry is more than a reflection of a broadening concern for child maltreatment and the emergence of a new speciality, “Child Maltreatment Law.” The broad reach is deliberate. How diverse fields of inquiry and practice can talk to each other remains one of the most challenging issues confronting efforts to address the maltreatment of children. The position taken in the pages that follow is that we learn about issues foreign to us by examining others’ real life situations. To do so, we examine cases and research to see how the law works, how it often fails, and how we can envision alternative approaches. The vast majority of the materials are quite unpleasant and depressing. Child maltreatment is a multisystemic problem with no easy solutions, and our effort to understand it must adapt to that reality. Understanding what we know about maltreatment is no easy task. It means acquiring a very broad understanding of cultural diversity, human development, and interdisciplinary research. It also means understanding basic principles guiding many areas of law that regulate human relationships, ranging from child welfare law, criminal law, juvenile justice, civil/tort law, family law, labor law, education law, poverty law, constitutional law, laws of evidence, and civil rights law to human rights law. Equally importantly, it means understanding the limits of our knowledge and determining how to proceed in directions fraught with uncertainties.

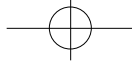
Proposing that we must take a comprehensive approach is not without controversy. Yet and as we will soon see, understanding how to respond to maltreatment means moving beyond the boundaries of the child welfare system and examining, for example, the welfare system and how the legal system privileges some family dynamics and structures over others. If there is only one point that emerges from this text, I hope it is that we only will be situated to respond more effectively to child maltreatment when we understand the many ways the legal system addresses and can address the ways we treat children, those with whom they interact, and one another. If there is any other point



that emerges, I hope it is the realization that legal systems remain profoundly limited and that addressing intractable social problems like child maltreatment requires broad social reform guided, but not straightjacketed, by law.

Given the multiple areas of law and the remarkable complexity of maltreatment, it is important to note that the categories of maltreatment and the legal topics we will discuss should be viewed as analytical tools rather than self-contained categories. For example, the reality is that sexual maltreatment often involves psychological maltreatment and neglect; and many legal systems regulate responses to sexual maltreatment. Likewise, when we review cases, we will find that they often foreshadow discussions. For example, the termination of parental rights often plays a pivotal role in many forms of state responses to maltreatment. We must introduce the rules of termination when we examine the various forms of maltreatment and then return to them when we examine how the law terminates relationships in a manner that protects the rights of parents, children, and broader society. We even return to them again when we consider broad policy objectives that balance the extent to which we want to preserve families or remove children from them. We could take a much more categorical approach, but that likely would prove unsatisfactory given that we would not really know what transpires in the cases selected as illustrative of complex issues and we would not know how broad principles guide different responses to maltreatment.

It may be helpful to provide a brief overview of the manner in which I have organized the chapters. Part I explores how the legal system defines what constitutes the major forms of maltreatment deemed worthy of state intervention in the lives of children, families and communities. Part II details the nature of families assumed problematic and how the state directly intervenes in families to address maltreating conditions. Part III addresses the challenges faced by efforts to stop and prevent child maltreatment as well as advocacy and legal reform efforts. The appendices assist those unfamiliar with legal cases, legal terminology, the legal system, and the place of social sciences in law. Taken together, the materials provide what I hope will be a firm foundation for understanding key social science findings, policy directions, and practices in child maltreatment law.



Notes on Case Editing

Many citations and footnotes, as well as sizeable portions of texts, have been omitted in order to keep materials at a manageable size and to facilitate reading. Ellipses, or brackets containing summaries of omitted material, indicate where other text has been deleted. Notes often appear at the end of the cases; those notes are not from the cases unless specifically noted. Many citations and footnotes considered non-essential for understanding the cases or child maltreatment law have been omitted without indication.

