
FALLING BETWEEN THE CRACKS: UNDERSTANDING WHY STATES FAIL IN PROTECTING OUR CHILDREN FROM CRIME

Michal Gilad*

This Article is the first to take an inclusive look at the monumental problem of crime exposure during childhood, which is estimated to be one of the most damaging and costly public health and public safety problems in our society today. We conducted a unique fifty-state survey, examining the state-level statutory responses to affected children. The survey uncovered staggering system failures, bureaucratic labyrinths, access to information challenges, and lack of coordination among governing agencies and organizations. Consequently, despite statutory eligibility for therapeutic services and compensation, the majority of children suffering the dire consequences of crime exposure are never identified. Even when identified, only a miniscule minority ever receive services or treatment to facilitate recovery.

Informed by scientific findings, the Article also takes on the challenging task of 'naming' this complex problem by coining the term "Comprehensive Childhood Crime Impact," or the "Triple-C Impact" in short. The term embodies the full effect of direct and indirect crime exposure on children due to their unique developmental characteristics, as well as the mammoth spillover effect on our society as a whole.

* Michal Gilad is an Associate Fellow with the University of Pennsylvania Leonard Davis Institute of Health Economics (Penn LDI). She holds an LL.M. from the University of Pennsylvania Law School, an MS degree from the University of Pennsylvania Department of Criminology, and an LL.B. from Tel Aviv University Faculty of Law. The author would like to thank Professor David Rudovsky for his endless support and ongoing mentorship. This Article is published in honor and memory of Dr. Matthew Parker, Associate Dean for Graduate Programs and Executive Director of Legal Education Programs at the University of Pennsylvania Law School, who's presence will forever remain with us.

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I. INTRODUCTION

Since the early 1980s, every first-year law student in the U.S. has been inculcated with the conceptual process of naming, blaming, and claiming.¹ They have been taught that the first and most fundamental step in addressing a problem is identifying an experience as injurious and naming it as such.² With an entire generation of legal minds trained to “name,” is it still possible that one of the most injurious and costly problems in our society has yet to be properly named?

Over the past two decades, a large volume of empirical evidence has accumulated demonstrating the devastatingly harmful effect of direct and indirect childhood exposure to crime and violence.³ The documented harm ranges from physical and mental health problems,⁴ to increased risk for learning disabilities,

1. William L. F. Felstiner et al., *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming* . . . , 15 LAW & SOC'Y REV. 631, 631 (1980).

2. See generally *id.*

3. See generally ROBERT L. LISTENBEE, JR. ET AL., REPORT OF THE ATTORNEY GENERAL'S NATIONAL TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE 66 (2012), <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>; Ruth Gilbert et al., *Burden and Consequences of Child Maltreatment in High-Income Countries*, 373 LANCET 68 (2009); Gayla Margolin & Elana B. Gordis, *The Effects of Family and Community Violence on Children*, 51 ANN. REV. PSYCHOL. 445 (2000); Maria Melchior et al., *Why Do Children from Socioeconomically Disadvantaged Families Suffer from Poor Health when They Reach Adulthood? A Life-Course Study*, 166 AM. J. EPIDEMIOLOGY 966 (2007); Frank W. Putnam, *The Impact of Trauma on Child Development*, 57 JUV. & FAM. CT. J. 1 (2006). For more on the outcomes of childhood crime exposure, see Michal Gilad et al., *The Snowball Effect of Crime & Violence: Measuring the Triple-C Impact*, 46 FORDHAM URB. L.J. (forthcoming 2019) [hereinafter Gilad, *Snowball Effect*].

4. PUB. HEALTH MGMT. CORP., FINDINGS FROM THE PHILADELPHIA URBAN ACE STUDY 1 (2013), <http://www.instituteforsafefamilies.org/sites/default/files/isfFiles/Philadelphia%20Urban%20ACE%20Report%202013.pdf>; Tracie O. Afifi et al., *Population Attributable Fractions of Psychiatric Disorders and Suicide Ideation and Attempts Associated with Adverse Childhood Experiences*, 98 AM. J. PUB. HEALTH 946, 946 (2008);

behavioral problems, repeat victimization,⁵ juvenile delinquency,⁶ adult criminality,⁷ and substance abuse.⁸ In 2012, the Attorney General Task Force on Children Exposed to Violence declared the problem as “a national crisis and a threat to the health and well-being of our nation’s children and of our country.”⁹ Others have described it as one of the most costly public health and public safety problems in the United States today.¹⁰

Despite the severity of childhood exposure to crime and violence, and the increased attention given to its various components, thus far there are almost no studies or policy analyses that take an inclusive look at the problem as a whole. Most available studies focus exclusively on one isolated form of exposure.¹¹ Indirect forms of childhood exposure to crime and their effects are often ignored or narrowly defined. This segmented and compartmentalized approach, which avoids properly defining and “naming” the problem, has prevented us from gaining a true understanding of its full scope, effect, and gravity. It has also hindered our ability to more accurately estimate the full cost of the problem to the state and to our society. Unsurprisingly, the

Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14 AM. J. PREVENTIVE MED. 245, 251 (1998); Leah K. Gilbert et al., *Childhood Adversity and Adult Chronic Disease: An Update from Ten States and the District of Columbia, 2010*, 48 AM. J. PREVENTIVE MED. 345, 345–46 (2015); Eunju Lee et al., *Exposure to Community Violence as a New Adverse Childhood Experience Category: Promising Results and Future Considerations*, 98 FAM. SOC’Y 69, 69–70 (2017); Margolin & Gordis, *supra* note 3, at 459; Michael J. Salomon Weiss & Sheldon H. Wagner, *What Explains the Negative Consequences of Adverse Childhood Experiences on Adult Health? Insights from Cognitive and Neuroscience Research*, 14 AM. J. PREVENTIVE MED. 356, 356 (1998).

5. Jaelyn E. Barnes et al., *Sexual and Physical Revictimization Among Victims of Severe Childhood Sexual Abuse*, 33 CHILD ABUSE & NEGLECT 412, 417 (2009); Jamison D. Fargo, *Pathways to Adult Sexual Revictimization: Direct and Indirect Behavioral Risk Factors Across the Lifespan*, 24 J. INTERPERSONAL VIOLENCE 1771, 1784 (2009); Taryn Lindhorst et al., *Mediating Pathways Explaining Psychosocial Functioning and Revictimization as Sequelae of Parental Violence Among Adolescent Mothers*, 79 AM. J. ORTHOPSYCHIATRY 181, 181 (2009); Cathy Spatz Widom et al., *Childhood Victimization and Lifetime Revictimization*, 32 CHILD ABUSE & NEGLECT 785, 785 (2008).

6. Carlos A. Cuevas et al., *Juvenile Delinquency and Victimization: A Theoretical Typology*, 22 J. INTERPERSONAL VIOLENCE 1581, 1581 (2007); Carolyn Smith & Terence P. Thornberry, *The Relationship Between Childhood Maltreatment and Adolescent Involvement in Delinquency*, 33 CRIMINOLOGY 451, 468 (1995).

7. See, e.g., Cathy Spatz Widom, *Child Victims: Searching for Opportunities to Break the Cycle of Violence*, 7 APPLIED & PREVENTIVE PSYCHOL. 225, 225 (1998).

8. Robert F. Anda et al., *Adverse Childhood Experiences and Smoking During Adolescence and Adulthood*, 282 JAMA 1652, 1652 (1999); Shanta R. Dube et al., *Adverse Childhood Experiences and Personal Alcohol Abuse as an Adult*, 27 ADDICTIVE BEHAV. 713, 713 (2002); Shanta R. Dube et al., *Childhood Abuse, Neglect, and Household Dysfunction and the Risk of Illicit Drug Use: The Adverse Childhood Experiences Study*, 111 PEDIATRICS 564, 564 (2003); Dwain C. Fehon et al., *Correlates of Community Violence Exposure in Hospitalized Adolescents*, 42 COMPREHENSIVE PSYCHIATRY 283, 283 (2001); Dean G. Kilpatrick et al., *Risk Factors for Adolescent Substance Abuse and Dependence: Data from a National Sample*, 68 J. CONSULTING & CLINICAL PSYCHOL. 19, 19 (2000); Michael Lynch, *Consequences of Children’s Exposure to Community Violence*, 6 CLINICAL CHILD & FAM. PSYCHOL. REV. 265, 267–68 (2003); Mary E. Schwab-Stone et al., *No Safe Haven: A Study of Violence Exposure in an Urban Community*, 34 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 1343, 1344–45 (1995).

9. LISTENBEE JR. ET AL., *supra* note 3, at 31.

10. ERICA J. ADAMS, HEALING INVISIBLE WOUNDS: WHY INVESTING IN TRAUMA-INFORMED CARE FOR CHILDREN MAKES SENSE 1 (2010); Putnam, *supra* note 3, at 2.

11. DAVID FINKELHOR ET AL., CHILDREN’S EXPOSURE TO VIOLENCE: A COMPREHENSIVE NATIONAL SURVEY 3 (2009), <https://www.ncjrs.gov/pdffiles1/ojdp/227744.pdf>.

absence of a comprehensive understanding of the problem diminishes the ability to develop effective systematic solutions to improve the lives of millions of affected children and alleviate the harm inflicted upon our society.

Following the long-standing methodology of legal problem solving, for a truly inclusive examination of this devastating problem, it was necessary to first “name” it. This Article coins the term “Comprehensive Childhood Crime Impact,” or in short, the “Triple-C Impact.” The term embodies the full effect of all forms of direct and indirect crime exposure on children. Informed by scientific findings, it aims to clearly depict the complete interlocking matrix of ways in which crime harms children due to their unique developmental characteristics, and the spillover effect this harm has on society. The term allows for a common point of reference and a more precise use of terminology, as we examine this phenomenon, and attempt to develop effective responses to the challenges it poses.

The objective of this Article is to delineate the scientific and legal foundations at the base of the Triple-C Impact and to identify primary obstacles to its effective engagement. From a scientific perspective, this Article explores how the distinct developmental differences between children and adults shape the manner and severity in which crime exposure affects children. It also examines the marked short- and long-term injurious effect in store for this vulnerable group due to its discrete characteristics. From a legal perspective, this Article outlines and analyzes the intriguing results of our original fifty-state survey, which examines the statutory gaps in the existing response to the Triple-C Impact. The survey’s results paint an invaluable and unexpected picture of the root causes behind the ineptness of existing legal solutions to the problem.

Part II of this Article explains the fundamental principles of the Triple-C Impact. It also outlines the substantive differences between children and adults with regards to the impact of crime exposure on children. Part III delineates the scope of the Triple-C Impact. It carefully enumerates the categories of crime exposure that were selected to be included under the term and the empirical evidence that supports such inclusion. Part IV presents the results of the fifty-state survey, which examines the statutory responses presently available in the field and highlights statutory gaps. It also evaluates the strengths and weaknesses of the existing laws and policies and identifies the root causes of the marked deficiencies in the existing attempts to combat the Triple-C Impact problem. Part V elaborates on the policy implications of the survey’s findings, and the manners in which the findings can be utilized to improve our ability to address the problem. Part VI describes theoretical as well as practical reasons for addressing crime-related effects on children. Conclusions follow.

II. THE PRINCIPLES UNDERLYING THE TRIPLE-C IMPACT

It is undisputed that crime is a negative and harmful phenomenon for any community or individual that it touches. The conceptualization of the Triple-C Impact rests, however, on mounting empirical research demonstrating that there are significant developmental, social, and cultural differences between children

and adults. These differences lead children to be more vulnerable and susceptible to the negative forces of crime.¹² In fact, with relations to crime, children are considered to be the most vulnerable group in our society.¹³ The effect of crime infiltrates the lives of children from countless different directions. Despite common misperceptions, even when a criminal offence is not committed directly against the body of the child, evidence shows that it can leave marks that are acute, and often long lasting.¹⁴

The Triple-C Impact hinges on a set of factors that differentiate children from adults. These developmental variances have been shown to broaden, amplify, and influence the nature of the effect of crime on children when compared to adults. First, and most obvious, is that children are, on average, physically smaller and weaker than most adults, and they therefore are an easy target for predators. It is also vital to remember, however, that children are not merely miniature adults, and many more substantive differentiators are at play.

Second, from a physiological and anatomical perspective, a child's brain is extremely malleable during the early years of life.¹⁵ As a result, the "literature on central nervous system plasticity suggests that the human brain is dramatically affected by early experience."¹⁶ Exposure to crime and violence during childhood causes heightened levels of stress and overstimulation of certain brain structures, which can lead to chemical imbalance in the child's brain and abnormal neurological development.¹⁷ One recurring finding associated with crime exposure is a disruption in the development of the brain's major stress-regulating systems.¹⁸ The brain's executive functions, such as planning, memory, focusing attention, impulse control, and decision-making, were also found to be impaired due to exposure.¹⁹

12. David Finkelhor & Kathy Kendall-Tackett, *A Developmental Perspective on the Childhood Impact of Crime, Abuse, and Violent Victimization*, in 8 ROCHESTER SYMPOSIUM ON DEVELOPMENTAL PSYCHOPATHOLOGY: DEVELOPMENTAL PERSPECTIVES ON TRAUMA: THEORY, RESEARCH, AND INTERVENTION 1, 2 (Dante Cicchetti & Sheree L. Toth eds., 1997).

13. FINKELHOR ET AL., *supra* note 11, at 2; Patricia Y. Hashima & David Finkelhor, *Violent Victimization of Youth Versus Adults in the National Crime Victimization Survey*, 14 J. INTERPERSONAL VIOLENCE 799, 799 (1999).

14. FINKELHOR ET AL., *supra* note 11, at 2.

15. Margolin & Gordis, *supra* note 3, at 459–61; Bruce D. Perry, *Incubated in Terror: Neurodevelopmental Factors in the "Cycle of Violence"*, in CHILDREN IN A VIOLENT SOCIETY 124, 124 (Joy D. Osofsky ed., 1997).

16. Margolin & Gordis, *supra* note 3, at 459; *see also* Weiss & Wagner, *supra* note 4, at 356–57.

17. RICHARD J. LOEWENSTEIN ET AL., REPORT OF THE AMERICAN PSYCHIATRIC ASSOCIATION TASK FORCE ON THE BIOPSYCHOSOCIAL CONSEQUENCES OF CHILDHOOD VIOLENCE 23 (Richard J. Loewenstein & Frank W. Putnam eds., 2013), <http://www.researchgate.net/publication/239939460>; Margolin & Gordis, *supra* note 3, at 459–61.

18. Margolin & Gordis, *supra* note 3, at 460.

19. Dana Charles McCoy, *Early Violence Exposure and Self-Regulatory Development: A Bioecological Systems Perspective*, 56 HUM. DEV. 254, 255 (2013); *see also* Ayelet Lahat & Louis A. Schmidt, *Early Violence Exposure and Executive Function: Implications Psychopathology and Other Cautionary Points*, 56 HUM. DEV. 274, 275 (2013) (citing Dana Charles McCoy, *Early Violence Exposure and Self-Regulatory Development: A Bioecological Systems Perspective* (2013)).

Third, children are in critical stages of their emotional and cognitive development. Their identity is not yet formed, and their personality traits are in transitory stages.²⁰ As a result, they are considered to be significantly more vulnerable and susceptible to external influences and pressures.²¹ They are less mentally stable than adults, and they are extremely sensitive to psychological damage.²² Exposure to crime at this critical state can interrupt the delicate and complex process of maturation and alter its path.²³ It may affect the timing of typical developmental trajectories and disrupt children's progression through age-appropriate developmental tasks.²⁴

Furthermore, the underdeveloped cognitive capacity of most children and their emotional sensitivity limit their ability to "appraise and understand violence, to respond to and cope with danger, and to garner environmental resources that offer protection and support."²⁵ It also makes it difficult for them to process and cope with trauma and heal without external assistance.²⁶ The developmentally limited ability of young children to verbalize the powerful emotions they are experiencing may also aggravate the effect of exposure.²⁷ Victimology experts like Dr. Linda Mills recognize that there is a significant risk that any symptoms caused by crime exposure during these critical developmental stages will become embedded in the individual's core personality structure.²⁸

Fourth, as a factor of their social and psychological immaturity, children are dependent on adults for their survival and basic psychical and emotional needs.²⁹ Their dependency status enhances their vulnerability to the harmful effects of forms of indirect crime exposure. They "rely strongly on parent figures to protect them from danger, to make the world predictable and safe as they begin to venture forth, and to guide their responses in ambiguous or threatening situations."³⁰ Thus, when a caregiver is subjected to victimization, illicit substance abuse, or incarceration, the dependent children are often deprived of the care,

20. Marsha Levick et al., *The Eighth Amendment Evolves: Defining Cruel and Unusual Punishment Through the Lens of Childhood and Adolescence*, 15 U. PA. J. L. & SOC. CHANGE 285, 297–98 (2012).

21. *Id.* at 294–98.

22. *Roper v. Simmons*, 543 U.S. 551, 569–70 (2005).

23. Stephanie Holt et al., *The Impact of Exposure to Domestic Violence on Children and Young People: A Review of the Literature*, 32 CHILD ABUSE & NEGLECT 797, 802–03 (2008); Suzanne G. Martin, *Children Exposed to Domestic Violence: Psychological Considerations for Health Care Practitioners*, 16 HOLISTIC NURSING PRAC. 7, 9–10 (2002); Jennifer E. McIntosh, *Thought in the Face of Violence: A Child's Need*, 26 CHILD ABUSE & NEGLECT 229, 230 (2002).

24. Sue Boney-McCoy & David Finkelhor, *Special Populations: Psychosocial Sequelae of Violent Victimization in a National Youth Sample*, 63 J. CONSULTING & CLINICAL PSYCHOL. 726, 726 (1995); Margolin & Gordis, *supra* note 3, at 449–52.

25. Margolin & Gordis, *supra* note 3, at 450.

26. Levick et al., *supra* note 20, at 296.

27. Holt et al., *supra* note 23, at 802.

28. Linda G. Mills, *The Justice of Recovery: How the State Can Heal the Violence of Crime*, 57 HASTINGS L.J. 457, 486 (2005).

29. Elizabeth Scott, *The Legal Construction of Adolescence*, 29 HOFSTRA U. L. REV. 541, 546 (2000).

30. Margolin & Gordis, *supra* note 3, at 450.

support, guidance, and protection essential for their development into healthy, productive members of society.³¹

Moreover, due to their dependency status, children have comparatively little choice over their living environment and the people with whom they associate. Research presented in the American Psychological Association's amicus brief submitted to the U.S. Supreme Court in *Graham v. Florida*³² found that minors are "dependent on living circumstances of their parents and families and hence are vulnerable to the impact of conditions well beyond their control."³³ Justice Kagan, delivering the opinion of the court in *Miller v. Alabama*, reinforced the fact that minor children have limited control over their own environment, and are usually unable to extricate themselves from their surrounding environment, no matter how brutal or dysfunctional it is.³⁴ Hence, children do not have the capabilities or resources to remove themselves from harmful circumstances induced by crime and violence.³⁵ Furthermore, they depend on the assistance and initiative of adults to seek help for their rehabilitation and recovery from trauma.³⁶

Fifth, children have underdeveloped decision-making capacities.³⁷ This is due to children's level of cognitive development, immature judgment, and limited life experiences.³⁸ As a result, children tend to exhibit risk-taking behavior and low risk-aversion utility, particularly during teen years.³⁹ This could increase

31. *Id.* at 451–52.

32. 560 U.S. 48, 51 (2010).

33. Brief for the American Psychological Association et al., as Amici Curiae Supporting Petitioners at 15, *Graham v. Florida*, 560 U.S. 48 (2010) (Nos. 08-7412, 08-7621), <https://www.apa.org/about/offices/ogc/amicus/graham-v-florida-sullivan.pdf>; Alan E. Kazdin, *Adolescent Development, Mental Disorders, and Decision Making of Delinquent Youths*, in *YOUTH ON TRIAL: A DEVELOPMENTAL PERSPECTIVE ON JUVENILE JUSTICE* 33, 47 (Thomas Grisso & Robert G. Schwartz eds., 2000). Although this series of Supreme Court cases, including *Roper*, *Graham*, and *Miller*, dealt with juveniles offenders rather than victims, the court and amici's analysis of scientific developmental psychology is useful for an understanding of the special needs of juvenile and their unique characteristics and behavioral traits.

34. 567 U.S. 460, 477 (2012).

35. David Finkelhor & Patricia Y. Hashima, *The Victimization of Children & Youth: A Comprehensive Overview*, in *HANDBOOK OF YOUTH AND JUSTICE* 49, 59–61 (Susan O. White ed., 2001).

36. Terence P. Thornberry & Marvin D. Krohn, *The Development of Delinquency: An Interactional Perspective*, in *HANDBOOK OF YOUTH AND JUSTICE* 289, 299 (Susan O. White ed., 2001).

37. Elizabeth S. Scott & Thomas Grisso, *The Evolution of Adolescence: A Developmental Perspective on Juvenile Justice Reform*, 88 J. CRIM. L. & CRIMINOLOGY 137, 157 (1997).

38. *Id.* at 157; see also Elizabeth S. Scott, *The Legal Construction of Adolescence*, 29 HOFSTRA U. L. REV. 547, 550 (2000) [hereinafter Scott, *The Legal Construction*]; Kim Taylor-Thompson, *State of Mind/States of Development*, 14 STAN. L. & POL'Y REV. 143, 150 (2003).

39. A.L. Glenn et al., *The Neural Correlates of Moral Decision-Making in Psychopathy*, 14 MOLECULAR PSYCHIATRY 5 (2009); Adrian Raine & Yaling Yang, *Neural Foundations to Moral Reasoning and Antisocial Behavior*, 3 SOC. COGNITIVE & AFFECTIVE NEUROSCIENCE 203, 203 (2006); Elizabeth S. Scott et al., *Evaluating Adolescent Decision Making in Legal Contexts*, 19 L. & HUM. BEHAV. 221, 222 (1995); Scott, *Legal Construction*, *supra* note 38, at 591–92. See William Gardner, *A Life Span Theory of Risk Taking*, in *ADOLESCENT RISK TAKING* 66, 67–70 (Nancy J. Bell, Robert W. Bell eds., 1993); see also Lita Furby & Ruth Beyth-Marom, *Risk Taking in Adolescence: A Decision-Making Perspective*, 12 DEVELOPMENTAL REV. 1, 1 (1992); A.L. Greene, *Future-Time Perspective in Adolescence: The Present of Things Future Revisited*, 15 J. YOUTH & ADOLESCENCE 99, 105 (1986); Jari-Erik Nurmi, *How Do Adolescents See Their Future?: A Review of the Development of Future Orientation and Planning*, 11 DEV. REV. 1, 48 (1991); Laurence Steinberg & Elizabeth Cauffman, *Maturity of*

their exposure to crime and violence. Additionally, due to these immature decision-making capacities, the law normally charges adults with the task of making important decisions affecting children's lives. When parents or caregivers are incapacitated by violence, victimization, or incarceration, however, their ability to make coherent decisions on behalf of their children, and to fully consider their best interests, is inevitably diminished. This dynamic overexposes children to the harmful effect of crime.

Lastly, children are in the midst of their legal socialization.⁴⁰ Tom Tyler and Jeffrey Fagan define legal socialization as a process that unfolds during childhood and adolescence, through which children develop an inclination towards compliance with the law and cooperation with legal actors.⁴¹ The process is highly affected by children's exposure to crime and their childhood experiences with legal actors, law enforcement, and the justice system.⁴² Inferring from the research findings of Tyler and Fagan, it is likely that exposure to crime and violence, and the failure of the legal system to protect children from these harmful experiences, interfere with the legal socialization process of affected children. Disruption of this fundamental developmental process may explain a proclivity towards criminal behavior and illicit substance abuse in individuals affected by crime during childhood.⁴³

This set of fundamental developmental attributes commonly found in minor children overexposes children to the influence of crime and expands its effect far beyond conventional direct victimization. Insufficient accounting for these highly relevant differences between children and adults, and the unique developmental needs associated with these disparities, will inevitably impair the efficacy of any law or policy attempting to address the problem. The coining of the Triple-C Impact stems from an understanding that such marked distinctions necessitate focused attention on children as a unique group in order to develop a profound and accurate understanding of the problem and its possible solutions.

III. THE SCOPE OF THE TRIPLE-C IMPACT—CATEGORIES OF EXPOSURE

A significant element of the "naming" process is clearly marking the boundaries and content of the problem. The Triple-C Impact term is designed to encompass the full-range of direct and indirect forms of crime exposure that were found by empirical research to pose substantial short- and long-term harm to children due to the aforementioned unique developmental characteristics. The

Judgement in Adolescence: Psychosocial Factors in Adolescent Decision Making, 20 L. & HUM. BEHAV. 249, 254 (1996).

40. Jeffrey Fagan & Tom R. Tyler, *Legal Socialization of Children and Adolescents*, 18 SOC. JUST. RES. 217, 218 (2005).

41. *Id.* at 219–22. See also Jeffrey Fagan et al., *Developmental Trajectories of Legal Socialization Among Adolescent Offenders*, 96 J. CRIM. L. & CRIMINOLOGY 267, 270–73 (2005).

42. Fagan & Tyler, *supra* note 40, at 234.

43. Dean G. Kilpatrick et al., *Risk Factors for Adolescent Substance Abuse and Dependence: Data from a National Sample*, 68 J. CONSULTING & CLINICAL PSYCHOL. 19, 19 (2000); Cathy Spatz Widom, *Child Victims: Searching for Opportunities to Break the Cycle of Violence*, 7 APPLIED PREVENTIVE PSYCHOL. 225, 225 (1998).

primary criterion used in the selection of the exact categories of childhood exposure to crime is the presence of significant empirical evidence to support and demonstrate potential harm to the child, which rises to a level similar to that caused by direct victimization.⁴⁴

Direct victimization is the most conventional and commonly recognized form of crime exposure.⁴⁵ It occurs when an act defined by law as a criminal offense is committed against the person of the child.⁴⁶ Children who experience direct victimization, especially where violent crime is concerned, have been shown to exhibit an array of adverse short- and long-term symptoms.⁴⁷ The harm endured may vary depending on the type, severity, and frequency of the victimization as well as the child characteristics, such as age, gender, socio-economic status, level of familial support, and emotional capacity.⁴⁸

Documented symptoms include aggression, developmental and behavioral problems, attention disorders, attachment disorders, delays in educational development, and a deficit in social adaptation.⁴⁹ These children also suffer from in-

44. Due consideration should be given to the fact that children are not equally affected by crime victimization and trauma. Some children are deeply affected by victimization, whether direct or indirect, while others exhibit high levels of resilience. David Finkelhor, *Developmental Victimization: The Comprehensive Study of Childhood Victimization*, in VICTIMS OF CRIME 9, 12 (Robert C. Davis et al. eds., 3rd ed. 2007) [hereinafter Finkelhor, *Developmental Victimization*]. The exact combination of factors that allow some children to develop higher levels of resilience than others is not yet fully understood. Factors, however, such as age, gender, relationship with the caregiver, personal strengths and vulnerabilities, characteristics of the child's family and community, and the frequency and severity of the victimization, were shown by empirical research to have an effect on children's responses. BETSY MCALISTER GROVES ET AL., IDENTIFYING AND RESPONDING TO DOMESTIC VIOLENCE: CONSENSUS RECOMMENDATIONS FOR CHILD AND ADOLESCENT HEALTH 6 (2004), <http://www.futureswithoutviolence.org/userfiles/file/HealthCare/pediatric.pdf>; ANNE PETERSEN ET AL., NEW DIRECTIONS IN CHILD ABUSE AND NEGLECT RESEARCH 133 (2014).

45. Finkelhor, *Developmental Victimization*, *supra* note 44, at 11.

46. *Id.* at 10.

47. *Id.* at 12. For more on the outcome of the Triple-C Impact, see generally Gilad, *Snowball Effect*, *supra* note 3.

48. GROVES ET AL., *supra* note 44; PETERSEN ET AL., *supra* note 44; Stephanie Holt et al., *The Impact of Exposure to Domestic Violence on Children and Young People: A Review of the Literature*, 32 CHILD ABUSE & NEGLECT 797, 802–05 (2008); Sara R. Jaffee et al., *Individual, Family, and Neighborhood Factors Distinguish Resilient from Non-Resilient Maltreated Children: A Cumulative Stressors Model*, 31(3) CHILD ABUSE & NEGLECT 231, 246 (2007); Lois A. Weithorn et al., *Domestic Violence and Children: Analysis and Recommendations*, 9 FUTURE CHILD. 3, 9 (1999).

49. LISTENBEE JR. ET AL., *supra* note 3, at 31–32. Tracie O. Afifi et al., *Population Attributable Fractions of Psychiatric Disorders and Suicide Ideation and Attempts Associated with Adverse Childhood Experiences*, 98 AM. J. PUB. HEALTH 946, 951 (2008); Saaniya Bedi et al., *Risk for Suicidal Thoughts and Behavior After Childhood Sexual Abuse in Women and Men*, 41 SUICIDE & LIFE THREATENING BEHAV. 406, 411–12 (2011); Jacqueline C. Carter et al., *The Impact of Childhood Sexual Abuse in Anorexia Nervosa*, 30 CHILD ABUSE & NEGLECT 257, 264 (2006); Laura P. Chen et al., *Sexual Abuse and Lifetime Diagnosis of Psychiatric Disorders: Systematic Review and Meta-Analysis*, 85 MAYO CLINIC PROC. 618, 627 (2010); Scott E. Hadland et al., *Suicide and History of Childhood Trauma Among Street Youth*, 136 J. AFFECTIVE DISORDERS 377, 378 (2012); J. G. Hovens et al., *Impact of Childhood Life Events and Trauma on the Course of Depressive and Anxiety Disorders*, 126 ACTA PSYCHIATRICA SCANDINAVICA 198, 206 (2012); Annmarie C. Hulette et al., *Dissociation in Middle Childhood Among Foster Children with Early Maltreatment Experiences*, 35 CHILD ABUSE & NEGLECT 123, 127 (2011); Sarah Jonas et al., *Sexual Abuse and Psychiatric Disorder in England: Results from the 2007 Adult Psychiatric Morbidity Survey*, 41 PSYCHOL. MED. 709, 718 (2011); Sara Larsson et al., *High Prevalence of Childhood Trauma in Patients with Schizophrenia Spectrum and Affective Disorder*, 54 COMPREHENSIVE PSYCHIATRY 123,

creased risk for repeat victimization, mental health problems, and a greater likelihood to engage in criminal activity.⁵⁰ They are more inclined to practice risk behaviors, including alcoholism, drug abuse, smoking, suicide attempts, sexually promiscuous behavior, and unintended pregnancies.⁵¹ A strong link between

125 (2012); Gayla Margolin & Elana B. Gordis, *The Effects of Family and Community Violence on Children*, 51 ANN. REV. PSYCHOL. 445, 454 (2000); Terri L. Messman-Moore et al., *Emotion Dysregulation and Risky Sexual Behavior in Revictimization*, 34 CHILD ABUSE & NEGLECT 967, 968 (2010); Jennie G. Noll et al., *Sleep Disturbances and Childhood Sexual Abuse*, 31 J. PEDIATRIC PSYCHOL. 469, 470 (2006); Anna Plaza et al., *Childhood Physical Abuse as a Common Risk Factor for Depression and Thyroid Dysfunction in the Earlier Postpartum*, 200 PSYCHIATRY RES. 329, 334 (2012); Frank W. Putnam, *The Impact of Trauma on Child Development*, 57 JUV. & FAM. CT. J. 1, 1 (2006); Paul Rohde et al., *Associations of Child Sexual and Physical Abuse with Obesity and Depression in Middle-Aged Women*, 32 CHILD ABUSE & NEGLECT 878, 885 (2008); Lena Sanci et al., *Childhood Sexual Abuse and Eating Disorders in Females: Findings from the Victorian Adolescent Health Cohort Study*, 162 ARCHIVES PEDIATRIC & ADOLESCENT MED. 261, 265 (2008); Luisa Sugaya et al., *Child Physical Abuse and Adult Mental Health: A National Study*, 25 J. TRAUMATIC STRESS 384, 389 (2012); B. Wanner et al., *Childhood Trajectories of Anxiousness and Disruptiveness Explain the Association Between Early-Life Adversity and Attempted Suicide*, 42 PSYCHOL. MED. 2373, 2379 (2012); Mette Ystgaard et al., *Is There a Specific Relationship Between Childhood Sexual and Physical Abuse and Repeated Suicidal Behavior?*, 28 CHILD ABUSE & NEGLECT 863, 871 (2004).

50. Bryndis B. Asgeirsdottir et al., *Associations Between Sexual Abuse and Family Conflict/Violence, Self-Injurious Behavior, and Substance Use: The Mediating Role of Depressed Mood and Anger*, 35 CHILD ABUSE & NEGLECT 210, 216 (2011); Laura Bevilacqua et al., *Interaction Between FKBP5 and Childhood Trauma and Risk of Aggressive Behavior*, 69 ARCHIVES GEN. PSYCHIATRY 62, 70 (2012); Sophie Boivin et al., *Past Victimization and Dating Violence Perpetration in Adolescence: The Mediating Role of Emotional Distress and Hostility*, 27 J. INTERPERSONAL VIOLENCE 662, 673–74 (2012); Sjoukje B. B. de Boer et al., *Childhood Characteristics of Adolescent Inpatients with Early-Onset and Adolescent-Onset Disruptive Behavior*, 34 J. PSYCHOPATHOLOGY & BEHAV. ASSESSMENT 415, 421 (2012); Shi Huang et al., *The Long-Term Effects of Childhood Maltreatment Experiences on Subsequent Illicit Drug Use and Drug-Related Problems in Young Adulthood*, 36 ADDICTIVE BEHAV. 95, 98 (2011); Deborah J. Jones et al., *Linking Childhood Sexual Abuse and Early Adolescent Risk Behavior: The Intervening Role of Internalizing and Externalizing Problems*, 41 J. ABNORMAL CHILD PSYCHOL. 139, 146–47 (2013); Eleni K. Maneta et al., *Links Between Childhood Physical Abuse and Intimate Partner Aggression: The Mediating Role of Anger Expression*, 27 VIOLENCE & VICTIMS 315 (2012); Roberto Maniglio, *The Role of Child Sexual Abuse in the Etiology of Substance-Related Disorders*, 30 J. ADDICTIVE DISEASES 216, 222 (2011); Christina S. Meade et al., *Methamphetamine Use Is Associated with Childhood Sexual Abuse and HIV Sexual Risk Behaviors Among Patrons of Alcohol-Serving Venues in Cape Town, South Africa*, 126 DRUG & ALCOHOL DEPENDENCE 232, 238 (2012); Lynette M. Renner & Stephen D. Whitney, *Risk Factors for Unidirectional and Bidirectional Intimate Partner Violence Among Young Adults*, 36 CHILD ABUSE & NEGLECT 40, 49–50 (2012); Sunny H. Shin, Daniel P. Miller & Martin H. Teicher, *Exposure to Childhood Neglect and Physical Abuse and Developmental Trajectories of Heavy Episodic Drinking from Early Adolescence into Young Adulthood*, 127 DRUG & ALCOHOL DEPENDENCE 31, 36 (2013); Helen W. Wilson & Cathy S. Widom, *Pathways from Childhood Abuse and Neglect to HIV-Risk Sexual Behavior in Middle Adulthood*, 79 J. CONSULTING & CLINICAL PSYCHOL. 236, 244–45 (2011) [hereinafter Wilson & Widom, *Pathways from Childhood Abuse and Neglect*]; Helen W. Wilson & Cathy S. Widom, *The Role of Youth Problem Behaviors in the Path from Child Abuse and Neglect to Prostitution: A Prospective Examination*, 20 J. RES. ADOLESCENCE 210 (2010) [hereinafter Wilson & Widom, *The Role of Youth Problem Behaviors*].

51. Anda et al., *supra* note 8, at 1656–57; Asgeirsdottir et al., *supra* note 50, at 216; Dube et al., *Adverse Childhood Experiences*, *supra* note 8, at 722–23; Susan D. Hillis et al., *The Association Between Adverse Childhood Experiences and Adolescent Pregnancy, Long-Term Psychosocial Consequences, and Fetal Death*, 113 PEDIATRICS 320, 325–26 (2004); Huang et al., *supra* note 50, at 100; Jones et al., *supra* note 50, at 146–47; Maniglio, *supra* note 50, at 222; Meade et al., *supra* note 50, at 238; Shin, Miller & Teicher, *supra* note 50, at 36; Charles L. Whitfield et al., *Violent Childhood Experiences and The Risk of Intimate Partner Violence in Adults: Assessment in a Large Health Maintenance Organization*, 18 J. INTERPERSONAL VIOLENCE 166, 178–81 (2003); Wilson & Widom, *Pathways from Childhood Abuse and Neglect*, *supra* note 50, at 244–25. See generally Dube et al., *Childhood Abuse, Neglect and Household Dysfunction*, *supra* note 8; Wilson & Widom, *The Role of Youth Problem Behaviors*, *supra* note 50.

childhood victimization and life-threatening health conditions—such as cancer; lung, heart, liver, and skeletal diseases; sexually transmitted diseases; and obesity—has also been established.⁵²

On the other hand, indirect victimization occurs when a child experiences harm as a result of a criminal act committed against another.⁵³ Experts in the field assert that “[al]though indirect victimization affects adults as well as children, the latter are particularly vulnerable to its effects, due to their dependency on those being victimized.”⁵⁴ In fact, empirical studies demonstrate that unlike adults, direct and indirect victimization affect children in a very similar manner.⁵⁵ Research has shown that what may appear to the layperson’s eye to be “minor” forms of crime exposure, such as witnessing violence without being physically touched, can result in substantial harm.⁵⁶ The harm caused varies in a comparable manner to direct victimization and is influenced by a similar set of variables pertaining to the crime and the child.⁵⁷ Indirect victimization can result from many different forms of crime exposure during childhood.⁵⁸

52. Renée Boynton-Jarrett et al., *Child and Adolescent Abuse in Relation to Obesity in Adulthood: The Black Women’s Health Study*, 130 *PEDIATRICS* 245, 249 (2012); Alanna D. Hager & Marsha G. Runtz, *Physical and Psychological Maltreatment in Childhood and Later Health Problems in Women: An Exploratory Investigation of the Roles of Perceived Stress and Coping Strategies*, 36 *CHILD ABUSE & NEGLECT* 393, 400 (2012); Roberto Maniglio, *The Impact of Child Sexual Abuse on Health: A Systematic Review of Reviews*, 29 *CLINICAL PSYCHOL. REV.* 647, 654 (2009); Molly L. Paras et al., *Sexual Abuse and Lifetime Diagnosis of Somatic Disorders: A Systematic Review and Meta-Analysis*, 302 *J. AM. MED. ASS’N* 550, 555 (2009); Natalie Slopen et al., *Childhood Adversity and Cell-Mediated Immunity in Young Adulthood: Does Type and Timing Matter?*, 28 *BRAIN BEHAV. & IMMUNITY* 63, 68 (2013).

53. David Finkelhor, *Developmental Victimology: The Comprehensive Study of Childhood Victimization*, in *VICTIMS OF CRIME* 9, 12 (3d ed. 2007).

54. *Id.*

55. See, e.g., Kilpatrick et al., *supra* note 8, at 26; Margolin & Gordis, *supra* note 3, at 469.

56. LISTENBEE JR. ET AL., *supra* note 3, at 66; Tyrone Bentley & Cathy S. Widom, *A 30-Year Follow-Up of the Effects of Child Abuse and Neglect on Obesity in Adulthood*, 17 *OBESITY* 1900, 1903 (2009); Preeti Chauhan & Cathy S. Widom, *Childhood Maltreatment and Illicit Drug Use in Middle Adulthood: The Role of Neighborhood Characteristics*, 24 *DEV. & PSYCHOPATHOLOGY* 723, 724–25 (2012); Janet Currie & Cathy S. Widom, *Long-Term Consequences of Child Abuse and Neglect on Adult Economic Well-Being*, 15 *CHILD MALTREATMENT* 111, 117 (2010); Gilbert et al., *supra* note 3, at 70; Ilan Harpaz-Rotem et al., *Clinical Epidemiology of Urban Violence: Responding to Children Exposed to Violence in Ten Communities*, 22 *J. INTERPERSONAL VIOLENCE* 1479, 1487 (2007); William W. Harris, Alicia F. Lieberman & Steven Marans, *In the Best Interests of Society*, 48 *J. CHILD PSYCHOL. & PSYCHIATRY & ALLIED DISCIPLINES* 392, 392 (2007); Valentina Nikulina, Cathy S. Widom & Sally Czaja, *The Role of Childhood Neglect and Childhood Poverty in Predicting Mental Health, Academic Achievement and Crime in Adulthood*, 48 *AM. J. COMMUNITY PSYCHOL.* 309, 316–18 (2011); Cathy S. Widom et al., *A Prospective Investigation of Physical Health Outcomes in Abused and Neglected Children: New Findings from a 30-Year Follow-Up*, 102 *AM. J. PUB. HEALTH* 1135, 1142 (2012); Widom, Czaja & Dutton, *supra* note 5, at 793–94; Helen W. Wilson & Cathy S. Widom, *Does Physical Abuse, Sexual Abuse, or Neglect in Childhood Increase the Likelihood of Same-Sex Sexual Relationships and Cohabitation? A Prospective 30-Year Follow-Up*, 39 *ARCHIVES SEXUAL BEHAV.* 63, 72 (2010); Wilson & Widom, *Pathways from Childhood Abuse and Neglect*, *supra* note 50, at 244.

57. Holt et al., *supra* note 23, at 804–06.

58. Julian D. Ford, *Complex Adult Sequelae of Early Life Exposure to Psychological Trauma*, in *THE IMPACT OF EARLY LIFE TRAUMA ON HEALTH AND DISEASE: THE HIDDEN EPIDEMIC* 69, 69 (Ruth A. Lanius et al. eds., 2010); LISTENBEE JR. ET AL., *supra* note 3, at 29–30; Harris, Lieberman & Marans, *supra* note 56, at 392.

A meticulous review of the medical and social science studies in the field has highlighted specific forms of indirect crime exposure that emulate the injurious effect of direct victimization.

A. *Exposure to Family Violence*

The most well-known manifestation of indirect crime exposure is witnessing family crime and violence. These are cases where the child witnesses⁵⁹ a crime committed in the home, among family members, but does not suffer direct physical harm as a result of the witnessed crime.

The presence of crime and violence in the home interrupts the sense of safety, security, and stability that such an environment is meant to foster in a child.⁶⁰ Such unsettling disruption can create a deep sense of uncertainty and preoccupation with fear,⁶¹ as well as grief, anger, and shame.⁶² These children often feel “a sense of terror that they will lose an essential caregiver, such as a battered parent who is severely injured and could be killed.”⁶³ “To complicate things even further, they also often fear losing their relationship with a battering parent who may be taken away and incarcerated or even executed.”⁶⁴ The developmentally egocentric thinking of children also frequently leads them to be burdened by “profound guilt⁶⁵ because they believe that they should have somehow intervened or prevented the violence—or, tragically, that they actually caused the violence.”⁶⁶ Affected children describe “ambivalent attitude[s] towards [both] their parents,” including “fear and empathy” towards the abusing parent,

59. For the purpose of this Article, a child is considered to be a witness to a crime when he or she perceives the criminal incident in one of their senses (sight, hearing, etc.) or observes the aftermath of the crime (injuries, damage to property, etc.).

60. McIntosh, *supra* note 23, at 231; *see also* Martin, *supra* note 23, at 14.

61. Holt et al., *supra* note 23, at 802–03.

62. LISTENBEE JR. ET AL., *supra* note 3, at 32; E. Mark Cummings et al., *Children and Violence: The Role of Children’s Regulation in the Marital Aggression-Child Adjustment Link*, 12 *CLINICAL CHILD & FAM. PSYCHOL. REV.* 3, 7 (2009); *see also* Suzanne C. Perkins et al., *The Mediating Role of Self-Regulation Between Intrafamilial Violence and Mental Health Adjustment in Incarcerated Male Adolescents*, 27 *J. INTERPERSONAL VIOLENCE* 1199 (2012).

63. Patrick T. Davies et al., *Child Emotional Security and Interparental Conflict*, 67 *MONOGRAPHS SOC’Y FOR RES. CHILD DEV.* i (2002); *see also* Alexander J. Botsis et al., *Parental Loss and Family Violence as Correlates of Suicide and Violence Risk*, 25 *SUICIDE & LIFE-THREATENING BEHAV.* 253, 257–58 (1995); E. Mark Cummings et al., *Interparental Discord and Child Adjustment: Prospective Investigations of Emotional Security as an Explanatory Mechanism*, 77 *CHILD DEV.* 132, 140, 147 (2006); Theodore Gaensbauer et al., *Traumatic Loss in a One-Year-Old Girl*, 34 *J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY* 520, 526–27 (1995); Daniel S. Schechter et al., *Distorted Maternal Mental Representations and Atypical Behavior in a Clinical Sample of Violence-Exposed Mothers and Their Toddlers*, 9 *J. TRAUMA & DISSOCIATION* 123 (2008); Alice C. Schermerhorn, E. Mark Cummings & Patrick T. Davies, *Children’s Representations of Multiple Family Relationships: Organizational Structure and Development in Early Childhood*, 22 *J. FAM. PSYCHOL.* 89, 98 (2008).

64. LISTENBEE JR. ET AL., *supra* note 3, at 32.

65. Andrée Fortin et al., *Children’s Appraisals as Mediators of the Relationship Between Domestic Violence and Child Adjustment*, 26 *VIOLENCE & VICTIMS* 377, 386 (2011); Holt et al., *supra* note 23, at 803.

66. LISTENBEE JR. ET AL., *supra* note 3, at 32; *see also* Patrick T. Davies et al., *Pathways Between Profiles of Family Functioning, Child Security in the Interparental Subsystem, and Child Psychological Problems*, 16 *DEV. & PSYCHOPATHOLOGY* 525, 546 (2004).

and compassion “coupled with an obligation to protect” the abused.⁶⁷ Experiences of recurring sadness, confusion, and disappointment are also commonly described.⁶⁸

The presence of crime and violence in the home, particularly when intimate partner violence between mother and father is involved, “can make each caretaker less available to the child,” with the abuser perceived as “unpredictable and frightening” while the abused parent is “distracted by basic issues of safety and survival” for themselves and their children.⁶⁹

The Intergenerational Transmission of Violence theory posits that “witnessing and experiencing violence as a child leads to a greater use or tolerance of violence as an adult.”⁷⁰ The child’s ongoing exposure to aggression in the immediate environment can lead to a conceptualization of aggression as a functional and legitimate part of intimate relationships and family dynamics.⁷¹ Furthermore, children have a developmental need to attach rationale and justification to the batterer’s behavior in order to cope with the traumatic event.⁷² If inappropriate or inaccurate rationalization of abusive behavior is not addressed, “the child is potentially at risk of adopting anti-social rationales for their own abusive behavior” or abuse perpetrated against them.⁷³ The theory is thought to explain the heightened risk for either perpetrating or becoming a victim of domestic violence in adulthood observed among children exposed to family violence, thus leading to an intergenerational cycle of violence.⁷⁴ The theory also associates childhood exposure with greater likelihood of involvement in anti-social behavior, peer aggression, bullying, and violent crime.⁷⁵

67. Hadass Goldblatt, *Strategies of Coping Among Adolescents Experiencing Interparental Violence*, 18 J. INTERPERSONAL VIOLENCE 532, 542 (2003); see also Holt et al., *supra* note 23, at 802.

68. Holt et al., *supra* note 23, at 802.

69. Margolin & Gordis, *supra* note 3, at 451; see also Gayla Margolin, *Effects of Domestic Violence on Children*, in VIOLENCE AGAINST CHILDREN IN THE FAMILY AND THE COMMUNITY 57, 58 (Penelope K. Trickett & Cynthia J. Schellenbach eds., 1998).

70. Fred E. Markowitz, *Attitudes and Family Violence: Linking Intergenerational and Cultural Theories*, 16 J. FAM. VIOLENCE 205, 207 (2001); see also Holt et al., *supra* note 23, at 805; Sandra M. Smith et al., *The Intergenerational Transmission of Spouse Abuse: A Meta-Analysis*, 62 J. MARRIAGE & FAM. 640, 640 (2000).

71. Sandra A. Graham-Bermann & Victoria Brescoll, *Gender, Power and Violence: Assessing the Family Stereotypes of the Children of Batterers*, 14 J. FAM. PSYCHOL. 600, 601–02 (2000); George W. Holden, *Children Exposed to Domestic Violence and Child Abuse: Terminology and Taxonomy*, 6 CLINICAL CHILD & FAM. PSYCHOL. REV. 151, 157 (2003); Joy D. Osofsky, *Prevalence of Children’s Exposure to Domestic Violence and Child Maltreatment: Implications for Prevention and Intervention*, 6 CLINICAL CHILD & FAM. PSYCHOL. REV. 161, 165–66 (2003).

72. Holt et al., *supra* note 23, at 803.

73. *Id.*

74. Christine Wekerle & David A. Wolfe, *Dating Violence in Mid-Adolescence: Theory, Significance, and Emerging Prevention Initiatives*, 19 CLINICAL PSYCHOL. REV. 435, 441–42 (1999). For a discussion of the heightened risk for domestic violence perpetration and victimization among children exposed to family violence, see Alytia A. Levendosky et al., *Adolescent Peer Relationships and Mental Health Functioning in Families with Domestic Violence*, 31 J. CLINICAL CHILD PSYCHOL. 206, 206 (2002); K. Daniel O’Leary et al., *Multivariate Models of Men’s and Women’s Partner Aggression*, 75 J. CONSULTING & CLINICAL PSYCHOL. 752, 761 (2007).

75. Anna C. Baldry, *Bullying in Schools and Exposure to Domestic Violence*, 27 CHILD ABUSE & NEGLECT 713, 714–15 (2003); Holt et al., *supra* note 23, at 805–06; Laurence Steinberg, *Youth Violence: Do Parents and Families Make a Difference?*, 2 NAT’L INST. JUST. J. 30, 33 (2000).

The Intergenerational Transmission of Violence theory also finds support in empirical research. A study by Kaufman and Zigler estimated the intergenerational transmission rate to be 30% ($\pm 5\%$).⁷⁶ These findings were supported by a twelve-year longitudinal study, which “found that young adults who had been exposed to parental violence as children were 189% more likely than those not exposed, to experience violence in their own adult relationships.”⁷⁷ Research also found a direct relationship between the level of physical and emotional abuse of mothers and children’s belief systems regarding the intrinsic dominance and privilege of men along with the acceptable purpose of violence in family interactions.⁷⁸ Another study of individuals exposed to family violence during childhood has documented self-doubt of their “competency to become non-violent partners and ambivalence about their ability to control themselves.”⁷⁹

A recent study has examined the effect of childhood exposure to family violence on behavioral issues, including anxiety, depression, social interaction problems, attention problems, delinquency, aggression, and externalizing behaviors.⁸⁰ The study has found that children witnessing family violence alone had similar behavioral scores as children suffering from direct abuse.⁸¹ This effect is found to be most evident where boys are concerned.⁸² The only category in which differences were observed was the delinquency score,⁸³ where children who witnessed the violence scored lower than children affected by direct abuse, although their score was still significantly higher score than that of the control group.⁸⁴

The cumulative effect of these factors leads experts in the field to conclude that childhood exposure to family violence “has the potential to induce catastrophic and long-term trauma in the child witness.”⁸⁵ They further warn that the fact that a child does not exhibit distinct symptoms does not necessarily mean that she or he is unaffected by the violence, as the child may still develop physical or emotional symptoms later in life.⁸⁶

76. Richard J. Gelles & Mary M. Cavanaugh, *Violence, Abuse, and Neglect in Families and Intimate Relationships*, in *FAMILIES & CHANGE: COPING WITH STRESSFUL EVENTS AND TRANSITIONS* 129, 136 (Patrick C. McKenry & Sharon J. Price eds., 3d ed. 2005).

77. Holt et al., *supra* note 23, at 805.

78. Graham-Bermann & Brescoll, *supra* note 71, at 609.

79. Goldblatt, *supra* note 67, at 545.

80. Yuping Cao et al., *Effects of Exposure to Domestic Physical Violence on Children’s Behavior: A Chinese Community-Based Sample*, 9 *J. CHILD & ADOLESCENT TRAUMA* 127, 131 (2016).

81. *Id.* at 133.

82. *Id.* at 129.

83. The control group was composed of children who were not exposed to any form of family violence, either directly or indirectly.

84. Cao et al., *supra* note 80, at 130. The study was conducted in China, and thus the research sample is composed solely of children of Chinese ethnicity.

85. K.L. Kilpatrick & L.M. Williams, *Potential Mediators of Post-Traumatic Stress Disorder in Child Witnesses of Domestic Violence*, 22 *CHILD ABUSE & NEGLECT* 319, 328 (1998).

86. Katherine M. Kitzmann et al., *Child Witnesses to Domestic Violence: A Meta-Analytic Review*, 71 *J. CONSULTING & CLINICAL PSYCHOL.* 339, 347 (2003); Margolin & Gordis, *supra* note 3, at 446; *see also* Jennifer E. McIntosh, *Children Living with Domestic Violence: Research Foundations for Early Intervention*, 9 *J. FAM. STUD.* 219, 226–27 (2003).

B. Exposure to Community Crime

Even when the child's home environment is violence-free, the child is not immune to the effect of crime and violence exposure and may still experience indirect victimization as a result of exposure to community crime. The child may witness criminal activity outside the home among nonrelatives (for example, in the neighborhood or at school). Although the child is not directly physically injured, significant harm can result from the traumatic exposure.⁸⁷ Negative effect was documented for children who witnessed violence directly through sight or sound as well as those who only heard about the violence in retrospect.⁸⁸ This form of exposure to crime was found to most frequently affect school-age children and adolescents.⁸⁹ Children living in economically impoverished families and communities are also far more likely to be exposed.⁹⁰

Like the home, the neighborhood and school are considered to be part of the child's primary safe haven.⁹¹ Exposure to crime and violence in this environment can cause a loss of its protective and comforting qualities that are necessary for the development of the child's sense of security and trust.⁹² Once deprived of the ability to feel safe in their own schools and neighborhoods, adoption of an attitude of hypervigilance commonly occurs—never letting their guard down so they will be ready for the next outbreak of violence.⁹³ Such exposure to violence “can be interpreted by the child to mean not only that the world is unsafe but also

87. Margolin & Gordis, *supra* note 3, at 446.

88. Lynch, *supra* note 8, at 267; Patrick Sharkey, *The Acute Effect of Local Homicides on Children's Cognitive Performance*, 107 PNAS 11,733, 11,737 (2010) [hereinafter Sharkey, *Acute Effect*]; Patrick T. Sharkey et al., *The Effect of Local Violence on Children's Attention and Impulse Control*, 102 AM. J. PUB. HEALTH 2287, 2287 (2012); Dawn K. Wilson et al., *Violence Exposure, Catecholamine Excretion, and Blood Pressure Nondipping Status in African American Male Versus Female Adolescents*, 64 PSYCHOSOMATIC MED. 906, 907 (2002).

89. Lee et al., *supra* note 4, at 69; Bradley D. Stein et al., *Prevalence of Child and Adolescent Exposure to Community Violence*, 6 CLINICAL CHILD & FAM. PSYCHOL. REV. 247, 261 (2003); see also John E. Richters & Pedro Martinez, *The NIMH Community Violence Project: I. Children as Victims of and Witnesses to Violence*, 56 PSYCHIATRY 7, 8 (1993) (analyzing levels of witnessing violence among children in Washington, D.C.).

90. Carol B. Cunradi et al., *Neighborhood Poverty as a Predictor of Intimate Partner Violence Among White, Black, and Hispanic Couples in the United States: A Multilevel Analysis*, 10 ANNALS EPIDEMIOLOGY 297, 305 (2000); Lisa A. Goodman et al., *When Crises Collide: How Intimate Partner Violence and Poverty Intersect to Shape Women's Mental Health and Coping?*, 10 TRAUMA VIOLENCE & ABUSE 306, 308–09 (2009); see also Lin Huff-Corzine et al., *Deadly Connections: Culture, Poverty, and the Direction of Lethal Violence*, 69 SOC. FORCES 715, 719 (1991).

91. Margolin & Gordis, *supra* note 3, at 449.

92. *Id.* at 449–50.

93. Patrick J. Fowler et al., *Community Violence: A Meta-Analysis on the Effect of Exposure and Mental Health Outcomes of Children and Adolescents*, 21 DEV. & PSYCHOPATHOLOGY 227, 250 (2009); see also Michel Janosz et al., *Are There Detrimental Effects of Witnessing School Violence in Early Adolescence?*, 43 J. ADOLESCENT HEALTH 600, 601 (2008); Wendy Klierer & Terri N. Sullivan, *Community Violence Exposure, Threat Appraisal, and Adjustment in Adolescents*, 37 J. CLINICAL CHILD & ADOLESCENT PSYCHOL. 860, 860–61 (2008); Neena M. Malik, *Exposure to Domestic and Community Violence in a Nonrisk Sample: Associations with Child Functioning*, 23 J. INTERPERSONAL VIOLENCE 490, 501 (2008); Nancy Shields et al., *The Effects of Community Violence on Children in Cape Town, South Africa*, 32 CHILD ABUSE & NEGLECT 589, 599 (2008).

that the child is unworthy of being kept safe,” affecting self-esteem and the perception of self-worth.⁹⁴

Exposure to crime in the child’s natural environment may lead the child “to believe that violence is ‘normal’ . . . and that relationships are too fragile to trust because one never knows when violence will take the life of a friend or loved one.”⁹⁵ Children may feel compelled to resort to violence to avoid being viewed as weak and being targeted by bullies or other violent community members.⁹⁶ “They may turn to gangs or criminal activities due to despair and powerlessness, perpetuating a cycle of violence by inflicting violence on others and becoming targets for further violence or incarceration.”⁹⁷

Living in a community saturated with crime and violence may also negatively affect parents’ caretaking due to their own feelings of helplessness, fear, and grief. “Efforts to protect the child may be exhibited in authoritarian and restrictive parenting practices, as well as in certain precautions that may heighten the child’s anxiety.”⁹⁸ Other parents may yield to the sense of helplessness and cease any efforts to protect the child.⁹⁹

The Adverse Childhood Experiences (“ACE”) studies explored the link between a variety of negative events during childhood, including exposure to crime, and a host of health conditions in adulthood.¹⁰⁰ The studies found a strong link between negative childhood experiences and a broad range of physical and mental health problems and premature death.¹⁰¹ Exposure to community violence was not included in the original ACE Studies.¹⁰² More recent studies, however, have found strong and convincing evidence to suggest that exposure to community violence should be considered a new ACE category.¹⁰³ This conclusion is based on the substantial association between this type of exposure and the same set of life-threatening health conditions outlined in the ACE studies.¹⁰⁴ Similar studies have also established a link between exposure to community crime and post-traumatic stress symptoms (“PTSD”) as well as chemical imbalances in the brain that affect development and function.¹⁰⁵ Some studies go as far as showing

94. Margolin & Gordis, *supra* note 3, at 457; *see generally* Michael Lynch & Dante Cicchetti, *An Ecological Transactional Analysis of Children and Contexts: The Longitudinal Interplay Among Child Maltreatment, Community Violence, and Children’s Symptomatology*, 10 DEV. & PSYCHOPATHOLOGY 235 (1998).

95. LISTENBEE JR. ET AL., *supra* note 3, at 4.

96. Janosz et al., *supra* note 93, at 606–607; Shields et al., *supra* note 93, at 589.

97. LISTENBEE JR. ET AL., *supra* note 3, at 33; Catherine A. Taylor et al., *Cumulative Experiences of Violence Among High-Risk Urban Youth*, 23 J. INTERPERSONAL VIOLENCE 1618, 1618 (2008).

98. Margolin & Gordis, *supra* note 3, at 452.

99. *Id.*

100. David Finkelhor et al., *A Revised Inventory of Adverse Childhood Experiences*, 48 CHILD ABUSE & NEGLECT 13, 13 (2015).

101. *Id.*

102. *Id.*

103. *Id.* at 17.

104. *Id.* at 14; Lee et al., *supra* note 4, at 69.

105. Linda N. Freeman, Hartmut Mokros & Elva O. Poznanski, *Violent Events Reported by Normal Urban School-Aged Children: Characteristics and Depression Correlates*, 32 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 419, 419 (1993); Pedro Martinez & John E. Richters, *The NIMH Community Violence Project: II. Children’s Distress Symptoms Associated with Violence Exposure*, 56 PSYCHIATRY 22, 24 (1993); James J.

that even community violence that children do not witness in person can negatively affect their attentional abilities and cognitive performance.¹⁰⁶

C. Parental Victimization

When the child's parent is a victim of a violent crime, the child is often affected in some way by proxy. Unlike children exposed to family crime and violence, children under this category experience harm even though they do not perceive the commission of a crime through their own senses and are not considered witnesses to the crime against the parent.¹⁰⁷ "Simply put, the well-being of a child is inextricably linked to the well-being of the adults in his or her life"; and hence, if caregivers are victims of violence, this also impacts the children.¹⁰⁸ The most extreme scenario of parental victimization is homicide cases, where a child loses a parent or caregiver to crime.¹⁰⁹ The more common cases are of parents who have experienced violent victimization in childhood or adulthood, and suffer harmful implications as a result, with a spillover effect to their children.¹¹⁰ The effect of parental victimization is found to be most severe when the parent does not receive treatment and services to facilitate recovery.¹¹¹

Victimized parents have an increased probability of suffering from a range of mental health problems, including emotional deficiencies, depression, and low self-esteem.¹¹² A poorer state of physical health was also found in victimized, in comparison to nonvictimized, caregivers.¹¹³ Some evidence shows that victimization may also affect parenting skills and the interaction between parent and child.¹¹⁴ Survivors of victimization may have difficulties establishing clear generational boundaries with their children, may be over-

Mazza & William M. Reynolds, *Exposure to Violence in Young Inner-City Adolescents: Relationships with Suicidal Ideation, Depression, and PTSD Symptomatology*, 27 J. ABNORMAL CHILD PSYCHOL. 203, 204 (1999); Mary Schwab-Stone et al., *No Safe Haven II: The Effects of Violence Exposure on Urban Youth*, 38 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 359, 360 (1999); Shakira Franco Suglia et al., *Posttraumatic Stress Symptoms Related To Community Violence And Children's Diurnal Cortisol Response In An Urban Community-Dwelling Sample*, 17 INT. J. BEHAV. MED. 43, 44 (2010).

106. Sharkey, *Acute Effect*, *supra* note 88, at 11733; Sharkey et al., *supra* note 88, at 2292.

107. LISTENBEE JR. ET AL., *supra* note 3, at 109–10.

108. *Id.* at 110.

109. *Id.* at 109.

110. *Id.* at 116; Jennie G. Noll et al., *The Cumulative Burden Borne by Offspring Whose Mothers Were Sexually Abused as Children: Descriptive Results from a Multigenerational Study*, 24 J. INTERPERSONAL VIOLENCE 424, 427 (2009).

111. Howard Dubowitz et al., *Type and Timing of Mothers' Victimization: Effects on Mothers and Children*, 107 PEDIATRICS 728, 728 (2001); Cindy E. Weisbart et al., *Child and Adult Victimization: Sequelae for Female Caregivers of High-Risk Children*, 13 CHILD MALTREATMENT 235, 242 (2008).

112. Weisbart et al., *supra* note 111, at 240.

113. *Id.*

114. LISTENBEE JR. ET AL., *supra* note 3, at 32–33; Heidi N. Bailey et al., *The Impact of Childhood Maltreatment History on Parenting: A Comparison of Maltreatment Types and Assessment Methods*, 36 CHILD ABUSE & NEGLECT 236, 236 (2012); Patrick T. Davies et al., *A Process Analysis of the Transmission of Distress from Interparental Conflict to Parenting: Adult Relationship Security as an Explanatory Mechanism*, 45 DEV. PSYCHOL. 1761, 1761 (2009); Holt et al., *supra* note 23, at 800–801 (2008).

permissive as parents (or conversely, exhibit restrictive parenting practices), and may be more inclined to use harsh physical discipline.¹¹⁵

Studies show that when experiencing crime-induced trauma, a parent's ability to play a stable, consistent role in the child's life, and therefore to support the child, may be compromised.¹¹⁶ Furthermore, victimization causes parents themselves to be numbed, frightened, and depressed, unable to deal with their own trauma or grief, and thus they may encounter difficulties in being emotionally available, sensitive, and responsive to their children.¹¹⁷ A victimized parent who is depressed or overwhelmed may have difficulty meeting young children's need for structure or managing their developmental inability to understand and control their own emotions, thus impacting children's experience of emotional expression.¹¹⁸ The quality of attachment between parent and child has also been found to be affected.¹¹⁹ A victimized parent, particularly in cases of ongoing victimization, may be "living in constant fear, they may deny their children normal developmental transitions and the sense of basic trust and security that is the foundation of healthy emotional development."¹²⁰

Due to these factors, parental victimization has considerable detrimental consequences to child development, outcomes, and behavior as well as the child's relationship with the parent, even when the child is not aware of, or directly exposed to, the criminal act committed against the parent.

115. LISTENBEE JR. ET AL., *supra* note 3, at 31–32; George W. Holden et al., *Parenting Behaviors and Beliefs of Battered Women*, in CHILDREN EXPOSED TO MARITAL VIOLENCE: THEORY, RESEARCH, AND APPLIED ISSUES 291 (George W. Holden, Robert A. Geffner & Ernest N. Jouriles eds., 1998); Carol Coohy, *Battered Mothers Who Physically Abuse Their Children*, 9 J. INTERPERSONAL VIOLENCE 943, 951 (2004); David DiLillo & Amy Damashek, *Parenting Characteristics of Women Reporting a History of Childhood Sexual Abuse*, 8 CHILD MALTREATMENT 319, 319 (2003); Margolin & Gordis, *supra* note 3, at 452; Richard Thompson, *Mothers' Violence Victimization and Child Behavior Problems: Examining the Link*, 77 AM. J. ORTHOPSYCHIATRY 306, 307 (2007).

116. Eli Buchbinder, *Motherhood of Battered Women: The Struggle For Repairing The Past*, 23 CLINICAL SOC. WORK J. 307, 322 (2004); Kihyun Kim, Penelope K. Trickett & Frank W. Putnam, *Childhood Experiences of Sexual Abuse and Later Parenting Practices Among Non-Offending Mothers of Sexually Abused and Comparison Girls*, 34 CHILD ABUSE & NEGLECT 610, 613 (2010); Alytia A. Levendosky & Sandra A. Graham-Bermann, *Parenting in Battered Women: The Effects of Domestic Violence on Women and Their Children*, 16 J. FAM. VIOLENCE 171, 171 (2001); McIntosh, *supra* note 23, at 231; Joy D. Osofsky, *The Impact of Violence on Children*, 9 DOMESTIC VIOLENCE & CHILDREN 33, 40 (1999).

117. Holden, *supra* note 71, at 158; Alytia A. Levendosky & Sandra A. Graham-Bermann, *The Moderating Effects of Parenting Stress on Children's Adjustment in Woman-Abusing Families*, 13 J. INTERPERSONAL VIOLENCE 383, 386 (1998); Melanie Marysko et al., *History of Childhood Abuse is Accompanied by Increased Dissociation in Young Mothers Five Months Postnatally*, 43 PSYCHOPATHOLOGY 104, 105 (2010); Osofsky, *supra* note 116, at 40–41.

118. Jeffrey L. Edleson, *Children's Witnessing of Adult Domestic Violence*, 14 J. INTERPERSONAL VIOLENCE 839, 841 (1999).

119. Holt et al., *supra* note 23, at 801; Alytia A. Levendosky et al., *The Impact of Domestic Violence on the Maternal-Child Relationship and Preschool-Age Children's Functioning*, 17 J. FAM. PSYCHOL. 275, 276 (2003); see also HEDY CLEAVER, IRA UNELL, & JANE ALDGATE, CHILDREN'S NEEDS—PARENTING CAPACITY: CHILD ABUSE: PARENTAL MENTAL ILLNESS, LEARNING DISABILITY, SUBSTANCE MISUSE AND DOMESTIC VIOLENCE 72 (2d ed. 1999).

120. Alytia A. Levendosky, Shannon M. Lynch, & Sandra A. Graham-Bermann, *Mothers' Perceptions of the Impact of Woman Abuse on Their Parenting*, 6 VIOLENCE AGAINST WOMEN 247, 255 (2000); Levendosky & Graham-Bermann, *supra* note 116, at 173.

D. Parental Incarceration

Another form of indirect exposure to crime occurs when a child is separated from a primary caregiver as a result of incarceration. Children are affected by the incarceration of either parent, but they typically experience greater harm when their mother is imprisoned due to the central role a mother often plays in the life of a young child.¹²¹ Incarceration of a parent normally causes major negative economic, social, and psychological consequences to the child and may have life-long repercussions.¹²²

When the incarcerated parent is the primary caregiver, the family's life is fundamentally disrupted. The child is usually uprooted and may be separated, not only from the incarcerated parent but also from his or her siblings, other relatives, and friends.¹²³ The child is at risk of being moved frequently among caregivers and even becoming a ward of the state.¹²⁴ Maintaining a close relationship and regular contact with the incarcerated parent over time is a significant challenge.¹²⁵ Even in cases where a child is present at the time of arrest:

only 42% of officers inquire about that child's care; nearly one third will request that Child Protective Services (CPS) take custody of the child. For law enforcement agencies who do assume responsibility for a minor child upon the arrest of a sole caretaker, about half determine where the child is placed without involving CPS.¹²⁶

Unfortunately, even when officials request a recommendation for potential caregivers from the arrested parent, many are not willing or able to offer a sound placement recommendation.¹²⁷

When the child is too young to fully understand the reasons for the parent's "disappearance," destructive feelings of self-blame and anger can emerge.¹²⁸ The remaining caregiver is often unable to render necessary support and to find a suitable way to convey the information to the child in an age-appropriate manner.¹²⁹ Economic hardship is another likely possibility, due to the added legal

121. Tiffany Conway & Rutledge Q. Hutson, *Parental Incarceration: How to Avoid a "Death Sentence" for Families*, 41 CLEARINGHOUSE REV. J. POVERTY L. & POL'Y 212, 212 (2007).

122. *Id.*

123. *Id.*

124. Steve Christian, *Children of Incarcerated Parents*, NAT'L CONF. ST. LEGISLATURES, Mar. 2009, at 3.

125. For a detailed discussion, see Michal Gilad & Tal Gat, *U.S. v. My Mommy: Evaluation of Prison Nurseries as a Solution for Children of Incarcerated Women*, 37 N.Y.U. REV. L. & SOC. CHANGE 371, 387 (2013).

126. NANCY G. LA VIGNE, ELIZABETH DAVIES & DIANA BRAZZELL, URB. INST. JUST. POL'Y CTR., *BROKEN BONDS: UNDERSTANDING AND ADDRESSING THE NEEDS OF CHILDREN WITH INCARCERATED PARENTS* 3 (2008).

127. *Id.*

128. *Id.*

129. *Id.* at 7.

expenses involved and the loss of income or social benefits.¹³⁰ The child left behind is also subjected to negative stigma and shame associated with parental incarceration.¹³¹

Parental incarceration is one of the adverse childhood experiences empirically found to have a strong impact on adult health status and significant association with multiple risk behaviors and leading causes of premature death.¹³² Additional studies indicate that the separation of a young child from a primary caregiver due to incarceration is linked with a host of adverse symptoms, including impaired ability to sympathize or show concern for others; aggression and anger;¹³³ developmental and behavioral problems; sleeping, eating, or attention disorders; problems with social adaptation; and manifestation of sexually promiscuous behavior.¹³⁴

130. NELL BERNSTEIN, *ALL ALONE IN THE WORLD: CHILDREN OF THE INCARCERATED* 109–42 (2005); DONALD BRAMAN, *DOING TIME ON THE OUTSIDE: INCARCERATION AND FAMILY LIFE IN URBAN AMERICA* 151 (2004).

131. See Sarah Abramowicz, *Rethinking Parental Incarceration*, 82 U. COLO. L. REV. 793, 815 (2011); Denise Johnston, *Services for Children of Incarcerated Parents*, 50 FAM. CT. REV. 91, 97 (2012); Julie Poehlmann, *Children of Incarcerated Mothers and Fathers*, 24 WIS. J.L. GENDER & SOC'Y 331, 332–33 (2009).

132. Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14 AM. J. PREVENTIVE MED. 245, 251 (1998); Gilbert et al., *supra* note 4, at 346.

133. Christopher Wildeman, *Paternal Incarceration and Children's Physically Aggressive Behaviors: Evidence from the Fragile Families and Child Wellbeing Study*, 89 SOC. FORCES 285, 288 (2010).

134. REBECCA PROJECT FOR HUMAN RIGHTS & NATIONAL WOMEN'S LAW CENTER, *MOTHERS BEHIND BARS: A STATE-BY-STATE REPORT CARD AND ANALYSIS OF FEDERAL POLICIES ON CONDITIONS OF CONFINEMENT FOR PREGNANT AND PARENTING WOMEN AND THE EFFECT ON THEIR CHILDREN* 13 (2010); Jessica Y. Kim, *In-Prison Day Care: A Correctional Alternative for Women Offenders*, 7 CARDOZO WOMEN'S L.J. 221, 228–29 (2001); Joseph Murray et al., *Children's Antisocial Behavior, Mental Health, Drug Use, and Educational Performance After Parental Incarceration: A Systematic Review and Meta-Analysis*, 138 PSYCHOL. BULL. 175, 175 (2012); Leda M. Pojman, *Cuffed Love: Do Prison Babies Ever Smile?*, 10 BUFF. WOMEN'S L.J. 46, 62 (2002); Sara Wakefield & Christopher Wildeman, *Mass Imprisonment and Racial Disparities in Childhood Behavioral Problems*, 10 CRIMINOLOGY & PUB. POL'Y 793, 794–95 (2011); John J. Sheridan, *Inmates May be Parents, Too*, CORRECTIONS TODAY, Aug. 1996, at 100.

Life outcomes were also found to be affected by parental incarceration, including delays in educational development and achievement,¹³⁵ risk for homelessness,¹³⁶ a greater likelihood to develop addiction to drugs or alcohol,¹³⁷ and a greater likelihood to engage in criminal activity.¹³⁸ A recent longitudinal study also found a link between parental incarceration during childhood and social exclusion in adulthood.¹³⁹ The variable of social exclusion was composed of personal income, household income, perceived socioeconomic status, and feelings of powerlessness.¹⁴⁰ The study found that “both maternal and paternal incarceration significantly contribute to young adult social exclusion among offspring in their late twenties to early thirties.”¹⁴¹

Children suffering from parental incarceration are often referred to as the “invisible victims” of crime since they are forced to bear the consequences of their parents’ criminal behavior and the system’s inability, or possibly unwillingness, to address their needs and mitigate the displayed harms.¹⁴²

E. Child Witnesses

An additional category of exposure that was examined for inclusion under the Triple-C Impact sphere was child witnesses, who provide testimony before the criminal justice system either in court or to other law enforcement agencies. Some evidence exists of possible harm experienced by this category of children,

135. BARBARA BLOOM & DAVID STEINHART, WHY PUNISH THE CHILDREN?: A REAPPRAISAL OF THE CHILDREN OF INCARCERATED MOTHERS IN AMERICA 23–27 (1993); Rucker C. Johnson, *Ever-Increasing Levels of Parental Incarceration and the Consequences for Children*, in DO PRISONS MAKE US SAFER?: THE BENEFITS AND COSTS OF THE PRISON BOOM 177, 195–96 (Steven Raphael & Michael A. Stoll eds., 2009); ANN M. STANTON, WHEN MOTHERS GO TO JAIL 91–93 (1980); Holly Foster & John Hagan, *Incarceration and Intergenerational Social Exclusion*, 54 SOC. PROBS. 399, 416–17 (2007) [hereinafter Foster & Hagan, *Incarceration*]; Holly Foster & John Hagan, *Maternal and Paternal Imprisonment and Children’s Social Exclusion in Young Adulthood*, 105 J. CRIM. L. & CRIMINOLOGY 387, 405–21 (2015) [hereinafter Foster & Hagan, *Maternal and Paternal Imprisonment*]; Murray et al., *supra* note 134, at 186; Joseph Murray & David P. Farrington, *The Effects of Parental Imprisonment on Children*, 37 CRIME & JUST. 133, 162 (2008); Ashton D. Trice & JoAnne Brewster, *The Effects of Maternal Incarceration on Adolescent Children*, 19 J. POLICE & CRIM. PSYCHOL. 27, 31 (2004).

136. Foster & Hagan, *Incarceration*, *supra* note 135, at 410–13; Christopher Wildeman, *Parental Incarceration, Child Homelessness, and the Invisible Consequences of Mass Imprisonment*, 651 ANNALS AM. ACAD. POL. & SOC. SCI. 74, 84–86 (2014).

137. Murray et al., *supra* note 134, at 199; Michael E. Roettger et al., *Paternal Incarceration and Trajectories of Marijuana and Other Illegal Drug Use from Adolescence into Young Adulthood: Evidence from Longitudinal Panels of Males and Females in the United States*, 106 ADDICTION 121, 126 (2010).

138. Michael E. Roettger & Raymond R. Swisher, *Associations of Fathers’ History of Incarceration with Sons’ Delinquency and Arrest Among Black, White, and Hispanic Males in the United States*, 49 CRIMINOLOGY 1109, 1135 (2011).

139. Foster & Hagan, *Maternal and Paternal Imprisonment*, *supra* note 135, at 405–21.

140. *Id.* at 388.

141. *Id.* at 388. The study also found that educational interventions that increase successful completion of college to be a mediator of the exclusionary effects of maternal and paternal incarceration. *Id.* at 424.

142. Alexandra Hayes, *Children are the Invisible Victims of America’s Incarceration Problem*, THRIVE GLOBAL (July 25, 2018), <https://thriveglobal.com/stories/children-with-incarcerated-parents>.

especially when adequate services and support that target the unique developmental needs of this age group are not available.¹⁴³

Court testimony is an extremely stressful, frightening, and formidable event, especially for a vulnerable young child. The child is placed in the unfamiliar and intimidating environment of a courtroom and asked to participate in a process that is foreign and perplexing. She or he must face the defendant, who the child often perceives as a threatening and dangerous figure. The child is required to answer difficult questions in public and to go through harsh questioning by unsympathetic strangers. The child's truthfulness is repeatedly doubted and questioned throughout the process, and this is often perceived as a humiliating experience.¹⁴⁴ Moreover, the child must repeatedly re-live the traumatic event she or he witnessed through recurring interrogations by law enforcement and in court. When the defendant is known or related to the child witness, further difficulties, including intense guilt and loyalty conflicts, may arise.¹⁴⁵ The multitude of stressors involved in this experience can trigger extreme levels of anxiety and psychological strain, often referred to as "secondary traumatization."¹⁴⁶

Nevertheless, the documented level of harm caused as a result of court testimony does not appear to meet the threshold set by the previously discussed categories in this Part. Moreover, there is contrary evidence regarding the possible benefits that providing testimony can generate for the child as well as its function in facilitating recovery from crime-induced trauma.¹⁴⁷ Lastly, court witnessing is a form of crime exposure that very rarely stands alone. Children who provide testimony will normally also fall under one of the other Triple-C categories and thus will still be covered.

Under these circumstances, it was decided that this category of crime exposure should *not* be included under the Triple-C Impact at this point in time. This decision may change in the future if new empirical evidence emerges to support a weightier severity of harm that ought to be addressed independently from the other Triple-C Impact categories.

Relying on this comprehensive review of literature, it was determined that the Triple-C Impact concept should focus on five categories of childhood crime

143. Jodi A. Quas & Mariya Sumaroka, *Consequences of Legal Involvement on Child Victims of Maltreatment*, in CHILDREN'S TESTIMONY: A HANDBOOK OF PSYCHOLOGICAL RESEARCH AND FORENSIC PRACTICE 323, 329-34 (Michael E. Lamb et al. eds., 2d ed. 2012); U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE 1 (2005); Tanya Asim Cooper, *Sacrificing the Child to Convict the Defendant: Secondary Traumatization of Child Witnesses by Prosecutors, Their Inherent Conflict of Interest, and the Need for Child Witness Counsel*, 9 CARDOZO PUB. L. POL'Y & ETHICS J. 239, 244-49 (2011); Gail S. Goodman et al., *Testifying in Criminal Court: Emotional Effects on Child Sexual Assault Victims*, MONOGRAPHS SOC'Y FOR RES. CHILD DEV., 1992, at 44-62; Robert H. Pantell, *The Child Witness in the Courtroom*, PEDIATRICS, Mar. 2017, at 1-2; Jodi A. Quas et al., *Childhood Sexual Assault Victims: Long-Term Outcomes After Testifying in Criminal Court*, MONOGRAPHS SOC'Y FOR RES. CHILD DEV., 2005, at 9; Janet Leach Richards, *Protecting the Child Witness in Abuse Cases*, 34 FAM. L. Q. 393, 393 (2000).

144. Goodman et al., *supra* note 143, at 7-8.

145. *Id.*

146. Cooper, *supra* note 143, at 249-50.

147. Pantell, *supra* note 143, at 4; Jodi A. Quas & Gail S. Goodman, *Consequences of Criminal Court Involvement for Child Victims*, 18 PSYCHOL., PUB. POL'Y & L. 392, 394 (2011).

exposure supported by scientific findings: direct victimization, witnessing family crime, witnessing community crime, parental victimization, and parental incarceration. We must also remember that the aforementioned categories are not mutually exclusive. It is often the case that children experience poly-victimization and suffer from multiple forms of direct or indirect crime exposure.¹⁴⁸ Such cumulative exposure was found to further aggravate the harmful impact on the child.¹⁴⁹ As science evolves and advances, this list may change to adapt to new findings, relying on similar harm-based criteria.

It is vital to keep in mind, however, that like any social science, and even medical research, all the cited studies are affected by a range of limitations and methodical complexities.¹⁵⁰ These may be particularly pronounced in this area of study due to the frequent co-occurrence of childhood exposure to crime with other serious life adversities and the commonality of experiencing more than one of the Triple-C categories.¹⁵¹ Yet, while we must always remain conscious and mindful of these constraints and the improbability of absolute accuracy in results, the pronounced risk to children affected by the Triple-C Impact established in the existing empirical studies outlined above must not be ignored or discounted.

Once the problem is named and its scope and boundaries are better defined, we can proceed to examine the available statutory responses and policy-based solutions, and to assess their sufficiency in addressing the problem.

IV. GAUGING THE GAP—RESULTS OF THE FIFTY-STATE SURVEY

A primary factor influencing the level of harm caused by the Triple-C Impact is the manner in which affected children are addressed, identified, managed, and treated.¹⁵² The Attorney General Task Force on Children Exposed to Violence, which covered a few of the Triple-C Impact categories in its final report, has repeatedly emphasized that “[c]hildren exposed to violence can heal if we

148. David Finkelhor et al., *Poly-Victimization: A Neglected Component in Child Victimization*, 31 *CHILD ABUSE & NEGLECT* 7, 13 (2007).

149. David Finkelhor et al., *Pathways to Poly-Victimization*, 14 *CHILD MALTREATMENT* 316, 316–17 (2009); Finkelhor et al., *supra* note 148, at 9; Heather A. Turner et al., *Poly-Victimization in a National Sample of Children and Youth*, 38 *AM. J. PREVENTIVE MED.* 323, 327–28 (2010).

150. For examples of the common limitations and methodological difficulties described here, see Holt et al., *supra* note 23, at 798–99.

151. *Id.* at 798.

152. LISTENBEE JR. ET AL., *supra* note 3, at 5; Barnes et al., *supra* note 5, at 418; Judith A. Cohen et al., *Community Treatment of Posttraumatic Stress Disorder for Children Exposed to Intimate Partner Violence: A Randomized Controlled Trial*, 165 *ARCHIVES PEDIATRIC & ADOLESCENT MED.* 16, 20 (2011); Fargo, *supra* note 5, at 1771; Susan J. Ko et al., *Creating Trauma-Informed Systems: Child Welfare, Education, First Responders, Health Care, Juvenile Justice*, 39 *PROF. PSYCHOL.* 396, 398–99 (2008); Lindhorst et al., *supra* note 5, at 10; Tamra B. Loeb et al., *Associations Between Child Sexual Abuse and Negative Sexual Experiences and Revictimization Among Women: Does Measuring Severity Matter?*, 35 *CHILD ABUSE & NEGLECT* 946, 946–47 (2011); Sarah E. Ullman et al., *Child Sexual Abuse, Post-Traumatic Stress Disorder, and Substance Use: Predictors of Revictimization in Adult Sexual Assault Survivors*, 18 *J. CHILD SEXUAL ABUSE* 367, 368 (2009); Widom et al., *supra* note 5, at 785.

identify them early and give them specialized services, evidence-based treatment, and proper care and support.”¹⁵³ “Without services or treatment, even children who appear resilient and seem to recover from exposure to violence still bear emotional scars that may lead them to experience these same health and psychological problems years or decades later.”¹⁵⁴ Furthermore, the mere lack of response can further compound the caused harm by fostering a sense of isolation and betrayal as the child acknowledges that “no one takes notice or offers protection, justice, support, or help.”¹⁵⁵

Yet it is well documented that despite the strong association between exposure to violence and harm to the child, Triple-C affected children are habitually ignored.¹⁵⁶ The Task Force has recognized that few of the children affected by crime exposure are effectively identified.¹⁵⁷ Furthermore, “[t]he majority of children in our country who are identified as having been exposed to violence never receive services or treatment that effectively help them to stabilize themselves, regain their normal developmental trajectory, restore their safety, and heal their social and emotional wounds.”¹⁵⁸

Exposed children are considered “the ‘silent’ or ‘hidden’ victims of violence because their presence is often overlooked by the parents/caregivers or goes unknown by observers and professionals.”¹⁵⁹ Even in criminal cases that are reviewed by a multitude of professionals and service providers, including judges, law enforcement agents, prosecutors, and case workers, the situation of the children affected by the Triple-C Impact is often overlooked, and few of the professionals involved inquire about the affected children in their caseload.¹⁶⁰

153. LISTENBEE JR. ET AL., *supra* note 3, at 5.

154. *Id.* at 12.

155. *Id.* at 30.

156. *Id.* at 77; U.S. DEP’T OF HEALTH AND HUMAN SERVICES, CHILD MALTREATMENT 10 (2010); U.S. HEALTH RES. AND SERV. ADMIN., CHILD HEALTH USA 6 (2011); Judith A. Cohen, Anthony P. Mannarino & Satish Iyengar, *Community Treatment of Posttraumatic Stress Disorder For Children Exposed to Intimate Partner Violence: A Randomized Controlled Trial*, 165 ARCHIVES PEDIATRIC ADOLESCENT MED. 16, 16 (2011); John A. Fairbank & Doreen W. Fairbank, *Epidemiology of Child Traumatic Stress*, 11 CURRENT PSYCHIATRY REPS. 289, 289 (2009); Chandra Ghosh Ippen et al., *Traumatic and Stressful Events in Early Childhood: Can Treatment Help Those at Highest Risk?*, 35 CHILD ABUSE NEGLECT 504, 504 (2011); David J. Kolko et al., *Community Treatment of Child Sexual Abuse: A Survey of Practitioners in the National Child Traumatic Stress Network*, 36 ADMIN. POL’Y MENTAL HEALTH 37, 37 (2009); R. Wells et al., *Health Service Access Across Racial/Ethnic Groups of Children in the Child Welfare System*, 33 CHILD ABUSE NEGLECT 282, 283 (2009); Philip T. Yanos, Sally J. Czaja & Cathy Spatz Widom, *A Prospective Examination of Service Use by Abused and Neglected Children Followed Up into Adulthood*, 61 PSYCHIATRIC SERVS. 796, 796 (2010).

157. LISTENBEE JR. ET AL., *supra* note 3, at 83, 172; see also David Finkelhor et al., *Children’s Exposure to Violence: A Comprehensive National Survey*, JUV. JUST. BULL. 9 (Oct. 2009), <https://www.ncjrs.gov/pdffiles1/ojjdp/227744.pdf>.

158. LISTENBEE JR. ET AL., *supra* note 3, at 12.

159. *Identifying Children Affected by Domestic Violence*, NAT’L CHILD TRAUMATIC STRESS NETWORK, [http://www.kscourts.org/court-administration/Legal_Institute_on_Adverse_Childhood_Exp/Domestic%20Violence%20and%20Child%20Traumatic%20Stress%20\(NCTSN\).pdf](http://www.kscourts.org/court-administration/Legal_Institute_on_Adverse_Childhood_Exp/Domestic%20Violence%20and%20Child%20Traumatic%20Stress%20(NCTSN).pdf) (last visited Mar. 24, 2019) [hereinafter *Identifying Children*].

160. LISTENBEE JR. ET AL., *supra* note 3, at 70; SUSAN SCHECHTER & JEFFREY L. ELDELSON, OPEN SOCIETY INSTITUTE’S CENTER ON CRIME, COMMUNITIES & CULTURE, DOMESTIC VIOLENCE & CHILDREN: CREATING A PUBLIC RESPONSE 3 (2000); *Identifying Children*, *supra* note 159.

Studies show that professionals and service providers frequently fail to recognize the connection between exposure to crime and harm to children, and responding agencies and institutions do not have proper protocols and procedures in place to address these children.¹⁶¹ These findings are also supported by our survey results, in which less than a handful reported having specific policies or protocols aimed to facilitate identification of affected children.¹⁶² Even when such protocols were available, they focus exclusively on children exposed to family violence and do not cover any of the remaining Triple-C Impact categories.¹⁶³

Accordingly, in order to truly comprehend the problem before us, it is vital to understand what is missing from our existing response to the problem. Thus far, no study has attempted to empirically map the standing statutory availability in this field, and there is no systematic knowledge on the manner in which state laws and policies address children affected by the Triple-C Impact.

To fill the gap and gain an understanding of the root causes of the problem, we designed a comprehensive fifty-state survey. At the onset, we hypothesized that the existing deficient response to affected children stems from statutory lacunas, narrow statutory definitions, and restrictive eligibility criteria that exclude access to services and resources from many categories of exposed children. This hypothesis was based on theories in the literature and policy reports.¹⁶⁴ But our results, to a large extent, indicated differently.

The survey gathered data on statutory eligibility criteria for therapeutic services and resources for children directly and indirectly exposed to crime in each of the fifty states and the District of Columbia. It addressed all five categories of the Triple-C Impact: direct child victims,¹⁶⁵ children exposed to family violence,¹⁶⁶ children exposed to community violence,¹⁶⁷ children with a victimized

161. For example, a study of pediatric response to child exposure to domestic violence revealed that only 4.2% of the surveyed pediatric emergency departments have a protocol in place for responding to such cases. See, e.g., Rosalind J. Wright, et al., *Response of Battered Mothers in the Pediatric Emergency Department: A Call for Interdisciplinary Approach to Family Violence*, 99 PEDIATRICS 186, 188 (1997). Another study conducted by the American Prosecutors Research Institute has found that less than half of the prosecution offices responding to the study survey were aware of protocols directing law enforcement officers to ask about child victims or witnesses when investigating domestic violence reports. SCHECHTER & ELDELSON, *supra* note 160, at 7. See generally DEBRA WHITCOMB, CHILDREN AND DOMESTIC VIOLENCE: THE PROSECUTOR'S RESPONSE, NAT'L. CRIM. JUST. REFERENCE SERV. (2004), <https://www.ncjrs.gov/pdffiles1/nij/199721.pdf>; Wright, *supra*, at 186.

162. Complete survey data is archived with the author.

163. Complete survey data is archived with the author.

164. LISTENBEE JR. ET AL., *supra* note 3, at 5; SCHECHTER & ELDELSON, *supra* note 160, at 3; *Identifying Children*, *supra* note 159.

165. Children who had a crime committed against their own person.

166. Witnessing crime in the home or among family members, when the child is not physically harmed (most common are cases of domestic violence or inter-familial sexual abuse).

167. Witnessing crime outside the home (e.g., neighborhood or school) committed among nonrelatives, when the child is not physically harmed.

parent,¹⁶⁸ and children affected by parental incarceration.¹⁶⁹ The survey aimed to answer fundamental questions including the following: What resources are statutorily available on the state level? Which state agencies are charged with responding to affected children? Are there mechanisms to identify affected children? Which categories of children are statutorily eligible for services and resources?

The survey was conducted through email questionnaires¹⁷⁰ that were sent to a broad range of state agencies (*e.g.*, victim compensation agency, victim assistance office, state police, state and district attorney office, department of children & family services, department of human services, department of corrections, etc.)¹⁷¹ as well as nongovernmental organizations that serve children affected by crime. Responses were obtained from fifty out of the fifty-one jurisdictions, amounting to a 98% response rate. Only the State of Maryland refused to provide information per our survey questionnaire.¹⁷² All state responses were cross-referenced and verified against the governing statutes, administrative rules, case law, agency guidelines, and internal policies. The results were logged in descriptive form and then translated into numerical data and analyzed.¹⁷³

We created the Triple-C Impact Index (“TCII”), which measures the degree of state response to the problem. The Index assigns each state a score between zero and six,¹⁷⁴ depending on the number of Triple-C Impact categories that were reported to be officially recognized by state law and statutorily eligible for therapeutic services or compensation. It should be clarified that only services and resources that are clearly mandated by law and target the specific population of children affected by each of the Triple-C Impact categories were included in the survey. Some additional services may be available by grassroots and civil-society organizations or privately under medical insurance of Medicaid, Medicare,

168. Children with a parent or a primary caregiver who was a victim of a violent crime, where the child was not a witness to the crime but was affected in some way by proxy.

169. Children with a parent or primary caregiver who is incarcerated in a county, state, or federal correctional facility.

170. Phone interviews and follow-ups were also conducted as needed to supplement electronic correspondence.

171. Although some references were made, the survey did not directly cover services provided by the general public school and public health system or through medical insurance. It also did not cover services by Child Protective Services, which are exclusive for children facing risk from a caregiver, rather than the general population of children.

172. Interview with D. Scott Beard, Exec. Dir., Criminal Injuries Comp. Bd., Dep’t of Pub. Safety & Corr. Serv. (Mar. 8, 2017) (on file with the author).

173. Under each category a state could be scored either “1” or “0.” “0” was logged when no eligibility for therapeutic was available in any form. “1” was logged when some degree of eligibility to therapeutic services or resources was available. The states were given the “benefit of the doubt” and received a “1” score even when available services were minimal and eligibility criteria was limited and restricting. Each state received a total score between zero and six accordingly.

174. The Index covers the five Triple-C Impact Categories (Direct victimization, existence of a specific Child Victims act or provision, exposure to family crime, exposure to community crime, parental victimization, and parental incarceration). A sixth point is awarded if the state collects statistical data on the parental status of inmates under the custody of the state’s department of corrections.

or CHIP coverage. Child Protective Services also provide some services to eligible children, but those are restricted only to children who face danger from their caregivers, rather than the entire group of affected children, and thus are excluded from the survey. In several states, some counseling services are available through the public school system, but these do not specifically target Triple-C Impact Children and are often sporadically available, depending on the budget and discretion of each school district in the state.¹⁷⁵

The survey's outcomes were insightful and surprising. They largely refuted the original hypothesis and directed attention to flaws in interagency coordination, extensive access barriers, ineffective utilization of resources, and insufficient account for the distinct needs of minor children. These crucial findings, outlined below, shine a bright light on potential solutions to the problems and inform us on effective paths toward improving the way we address children suffering from the Triple-C Impact.

A. Survey Findings: Steps in the Right Direction

Despite the original hypothesis that children under most of the Triple-C Impact categories are not formally recognized by law, and thus are ineligible to receive services to facilitate their recovery, the survey painted a very different image. Encouragingly, it revealed a sizable prevalence of statutory recognition of many of the Triple-C Impact categories among states, with the marked exception of children affected by parental incarceration. It also found that many state laws, as well as agency guidelines, mandate eligibility for services and resources for exposed children.

Based on the states' responses, the average state TCII score was 2.5, indicating that most states recognized two to three of the Triple-C Impact Categories. Encouragingly, only one state, the state of Indiana, was awarded a TCII score of zero, for failing to provide any statutory recognition of the surveyed categories. No state reported recognition of all the Triple-C Impact categories. The highest TCII score in the dataset was awarded to the state of New York for recognizing five of the six surveyed categories, excluding eligibility for services only for children affected by parental incarceration.¹⁷⁶

Among responding states, forty-five (88.2%) reported that children exposed to family crime were formally recognized and statutorily eligible for counseling services, compensation, or reimbursement.¹⁷⁷ Only five states (9.8%) explicitly excluded eligibility for this group of children.¹⁷⁸ Thirty-one of the responding states (60.8%) recognized eligibility of children with a victimized parent, even when the child was not a witness to the criminal act.¹⁷⁹ Twenty-two

175. In one case, school-based services were statutorily mandated to all school districts in the state, and eligibility criteria relied on the status of the child as affected by different categories of crime exposure. In this case, the services and resources provided were included in the survey.

176. A full summary table of state scores is available in the Appendix.

177. Complete survey data is archived with the author.

178. The states are Hawaii, Indiana, North Carolina, Rhode Island, and Wisconsin.

179. Complete survey data is archived with the author.

states (43.1%) had laws authorizing services and resources to children exposed to community crime.¹⁸⁰

Consistently excluded were children affected by parental incarceration, with only one state, the state of Vermont, reporting the availability of any statutory recourse to this group of vulnerable children.¹⁸¹ Furthermore, it was discovered that the majority of states (58.8%) do not collect any systematic data on the parental status of inmates in correctional facilities and therefore have no ability to identify or track children affected by parental incarceration.¹⁸²

State responses also reflected high levels of awareness of the issue of children indirectly exposed to crime and the short- and long-term harm they endure. This was especially evident in responses provided by State Victim Compensation agents. The survey results indicate that these agents make ongoing efforts to stretch the resources available to them and provide broad and inclusive interpretations to the governing laws in order to grant assistance to as many affected children as possible.

Survey responses repeatedly included statements such as the one provided by the Alaska Violent Crime Compensation Board, maintaining that “[t]he Board takes the view that if there is domestic violence in the home, the child will be affected whether or not they are eye witnesses to an actual physical altercation. So counseling would almost always be considered.”¹⁸³ In one case, a statutory provision was broadly interpreted in a manner that could even be presumed to exceed the legislature’s reasonable intent.¹⁸⁴ In this case, a provision that explicitly provided compensation to relatives of “sexual assault victims” who require “counseling in order to better assist the victim in his recovery,”¹⁸⁵ was expanded through broad interpretation of the State Crime Victim Compensation Program to apply to relatives of victims of any crime.¹⁸⁶

These unexpected outcomes shed a positive light on the approach of key players in the system to the needs of children affected by the Triple-C Impact. The results clearly show that for most Triple-C categories, the primary cause for the existing ineffective state response to affected children is not the lack of statutory eligibility or narrow legal definitions. Consequently, the results significantly alter our perception of the problem’s framework and mandate us to proceed with the quest for the actual causes elsewhere.

180. Complete survey data is archived with the author.

181. It should be noted that in the state of Vermont, therapeutic services to children with incarcerated parents are provided through the general behavioral health parity system, rather than a dedicated policy that specifically targets this group of children. Having an incarcerated parent, however, is a factor that is explicitly considered as part of the eligibility assessment. Thus, we considered Vermont as having statutory eligibility for services for children affected by parental incarceration. Interview with Kim Bushey, Program Servs. Dir., Vt. Dep’t of Corr. (Mar. 25, 2016) (on file with the author).

182. Complete survey data is archived with the author.

183. Interview with Katherine Hudson, Exec. Dir., Alaska Violent Crimes Comp. Bd. (Jan. 20, 2016) (on file with the author).

184. Complete survey data is archived with the author.

185. MO. REV. STAT. § 595.020.1(2)(a) (2018).

186. Interview with Susan Sudduth, Mo. Crime Victims’ Comp. Program (Apr. 12, 2016) (on file with the author).

B. Room for Improvement

Despite the positive highlights, the survey also uncovered a multitude of deficiencies and limitations. These findings provide indispensable directives in our search for the core of the problem.

Most evidently, the survey results reveal an unwarranted degree of disparity and inconsistency among, and even within, states when addressing the Triple-C Impact. Extreme differences were detected in the terminology used, the scope of the definitions provided, the agencies assigned to address each category of affected children, the level of accessibility to existing services, and the amount of information publicly available. On the national level, no methodical attempts for standardization, model policies, or guidelines for “best practices” in order to assure a minimum level of care were identified.

This lack of consistency and uniformity presents several fundamental challenges. From a research perspective, the use of inconsistent terminology and definitions makes it extremely difficult to investigate the Triple-C Impact problem in its entirety, evaluate existing findings, gain a coherent understanding of the full scope of the problem, and gauge its social cost and effect.¹⁸⁷ These constraints and limitations in the ability to conduct high-quality and reliable empirical studies are not confined to the academic arena, but they directly affect our ability to devise effectual evidence-based solutions to the problem. Moreover, alongside the more academic-oriented challenges, substantial practical difficulties also emerge.

From the state’s viewpoint, any effort to devise a coordinated interagency response to the problem requires fluent communication amongst all the governmental and nongovernmental stakeholders involved. When these bodies do not “speak the same language” in terms of the terminology used, division of labor, scope of responsibility, and the expected standard of service and care, such efforts are doomed to failure. It also makes it nearly impossible to share information, develop interstate collaborations, and benefit from experiences and lessons learned in other states. The survey presents strong evidence of this absence of coordination between the various agencies, organizations, and service providers in the field. In fact, it depicts a picture of a system in which each player on the field rarely knows what the other is doing, let alone works in tandem with other players towards the common goal of assisting impacted children.

One critical component of the uncoordinated efforts and deficiencies in communication among relevant stakeholders is the gap in knowledge among such key players. The survey uncovered numerous examples across the nation where resources were statutorily available to affected children but were not known to service providers and advocates who served these children, or even to government agencies entrusted with serving the relevant populations.

187. On the issue of inconsistency in terminology, see also David Finkelhor, *Prevalence of Child Victimization, Abuse, Crime, And Violence Exposure*, in *VIOLENCE AGAINST WOMEN AND CHILDREN: MAPPING THE TERRAINS* (J.W White, et al. eds.) 9, 9–13 (2011).

In the state of Kentucky for example, a representative of the Victim Compensation Board reported that, pending documentation of a medical practitioner indicating a child was emotionally injured in relation to a crime, the child would be considered for compensation and therapeutic services in cases of exposure to family crime, exposure to community crime, and parental victimization.¹⁸⁸ On the contrary, a representative of a nongovernmental youth advocacy organization in the state, serving children affected by the Triple-C Impact, responded that children under all three of the above-mentioned categories “are not considered ‘victims of crime’ and are not eligible for services/compensation.”¹⁸⁹

Similar trends were also detected among governmental agencies. In Nebraska, while a representative of the Victim Reparation Program confirmed that “children who witness family crime are eligible for compensation,”¹⁹⁰ a Victim Specialist with the office of the State Attorney General responded that she is “not familiar with any specific statutes or policies that provide for specific programming or services to children exposed to violence in their home.”¹⁹¹ Similarly, in the state of Virginia, the director of the state Criminal Injuries Compensation Fund reported that “for counseling purposes, minor child witnesses of violence involving a caretaker are considered to be a primary victim” and therefore eligible for services.¹⁹² Conversely, the Crime Victim Programs Manager at the Virginia Department of Justice asserted that “[a]s far as statutes or guidelines around eligibility for services to child witnesses to domestic violence, there are none.”¹⁹³

This state of affairs is particularly alarming in light of the fact that beyond the reasonable expectation that government agencies will work together in a cooperative and coordinated manner towards their common goals, nongovernmental organizations and service providers who receive funds under the Victims of Crime Act (“VOCA”) are mandated to assist and inform their clients of eligibilities for victim compensation benefits.¹⁹⁴ These statutory obligations are unlikely to be fulfilled if relevant governmental agencies as well as funded service providers are not trained, educated and periodically informed on the rights and eligibilities of each and every category of impacted children.

188. Interview with Lindsay Crawford, Policy Advisor / Interim SAEP Coordinator, Ky. Crime Victims Comp. Board (Feb. 3–4, 2016) (on file with author).

189. Interview with Shannon Moody, Policy Dir., Ky. Youth Advocates (Feb. 1–2, 2016) (on file with author).

190. Interview with Sher Schrader, Crime Victims’ Reparations Program, Neb. Comm’n on Law Enf’t & Criminal Justice (Feb. 5, 2016) (on file with author).

191. Interview with Doug Peterson, Neb. Attorney Gen., (Feb. 10, 2016) (on file with author); Interview with Patricia L. Sattler, MSW, Victim/Witness Specialist, Neb. Dep’t of Justice, (Feb. 10, 2016) (on file with author).

192. Interview with Jack Ritchie, Dir., Va. Criminal Injuries Comp. Fund (Mar. 9–10, 2016) (on file with author).

193. Interview with Cassandra Bullock, Victims Servs. Manager, Va. Dep’t of Criminal Justice Servs. (Mar. 8, 2016) (on file with author).

194. 42 U.S.C. 10603(b)(1)(E) (2018); Interview with Dan Eddy, Exec. Dir., Nat’l Ass’n of Crime Victim Comp. Bds. (Feb. 25, 2016) (on file with author).

The urgent need for interagency coordinated efforts to combat the problem is also highlighted in the Attorney General Task Force report.¹⁹⁵ Although the Task Force did not empirically test the issue, it clearly stated that “[c]hild-serving professionals from all disciplines and law enforcement professionals should partner to provide protection and help in recovery and healing for children exposed to violence.”¹⁹⁶ When addressing the appointed members of the Task Force, Attorney General Eric Holder further added that “[i]f we work together, across professional disciplines . . . we will be able to prevent this violence when possible, identify it when it does occur, and provide support that helps children heal so that they can grow into healthy adults.”¹⁹⁷ Throughout the report, an emphasis is put on the vital importance of developing a coordinated response across all phases of the process, from identification to recovery.¹⁹⁸

Lastly, and most concerning of all, are the challenges that emerge on the side of children affected by the Triple-C Impact and their families. For parents or guardians seeking resources and assistance for their children, the lack of systemic coordination, uniformity, and commonly used terminology poses a colossal hurdle in the ability to identify and access available services and potential resources. Such challenges are severely exacerbated by several related issues illuminated by the survey’s results.

Although the survey has detected a relatively high prevalence of statutory provisions that include children under most categories of the Triple-C Impact across the nation, very few of these provisions are specifically targeted towards children and their unique developmental needs. Most address the general adult population, with children included as an afterthought and without any account for the relevant differences between adults and minor children outlined in Part II. Only thirteen states (25.4%) reported having a dedicated child victims act or provision. Six additional states (11.7%) reported the availability of a statutory provision with child-specific elements for at least one of the Triple-C categories.¹⁹⁹ Absent such developmentally oriented accommodations, available policies are inevitably expected to have diminished efficacy.

Additionally, the vast majority (if not all) of the identified services and resources leave the initiative to the child’s parent or guardian, who must actively seek and apply for the service. None of the responding states reported the existence of an effective referral system designed to identify children affected by the Triple-C Impact and to refer them to therapeutic services for any of the categories of children included in the survey.²⁰⁰ Only one state (Rhode Island) reported a systematic mechanism for identification and tracking of children exposed to family crime.²⁰¹ This identification method, however, does not appear to be linked

195. LISTENBEE JR. ET AL., *supra* note 3, at 13.

196. *Id.* at 19.

197. Eric H. Holder, Jr., U.S. Attorney Gen., Letter of the Attorney General to Members of the National Task Force on Children Exposed to Violence (Dec. 20, 2012).

198. *See generally* LISTENBEE JR. ET AL., *supra* note 3.

199. Complete survey data is archived with the author.

200. Complete survey data is archived with the author.

201. Complete survey data is archived with the author.

to a referral mechanism. It was also not extended to children under any of the other Triple-C Impact categories.²⁰²

This appears to be a complicated system-design issue. While many of the statutorily mandated opportunities for counseling services for the relevant categories of children are provided through reimbursement by the states' Victim Compensation programs, such programs are not adequately equipped to provide effective recourse to the problem. Compensation programs are severely underfunded and allocated with only a negligent slice of the federal VOCA funds (only 7% of the total VOCA budget, amounting to \$133 million in 2017 for all states and territories combined).²⁰³ The application process is long and tedious, and programs in most states do not have the capacity to process large volumes of applications. Most importantly, by design, compensation agents do not have direct access to affected children and thus do not have the capabilities or resources to pursue effective outreach, identification, or referral efforts.²⁰⁴

At the same time, 93%, or \$1.8 billion of the federal VOCA budget, is allocated as grants to Victim Assistance Programs.²⁰⁵ The act prioritizes funds to services dedicated to child victims.²⁰⁶ In theory, the act permits the use of the grants to support a variety of local services and programs, including services to "secondary victims" such as children affected by crime exposure.²⁰⁷ Yet eligibility criteria for the funded programs do not seem to be regulated by any overarching policies (either by law or internal protocols). No state has reported protocols that assure that funds are distributed to all affected categories of children. All states that provided information on this issue in our survey stated that eligibility criteria depend on each individual program and case-by-case examination.²⁰⁸ No state could provide information about specific programs or services that accommodate the different categories of children affected by the Triple-C Impact. Publicly available lists of VOCA funded programs in each state include only very general information and do not specify whether eligibility criteria cover "secondary victims."²⁰⁹ Under these circumstances, although relevant services may be

202. Interview with Deborah DeBare, Exec. Dir., R.I. Coal. Against Domestic Violence (Mar. 22, 2016) (on file with author).

203. See OFFICE OF VICTIMS OF CRIME, OVC FORMULA CHART, 2017 CRIME VICTIMS FUND ALLOCATION: COMPENSATION (2017), <https://ojp.gov/ovc/grants/Crime-Victims-Fund-Compensation-Allocations-2017.pdf>; see also Interview with Dan Eddy, Exec. Dir., Nat'l Ass'n of Crime Victim Comp. Bds. (June 27, 2017) (on file with author).

204. Interview with Dan Eddy, *supra* note 203.

205. See OFFICE OF VICTIMS OF CRIME, *supra* note 203; Interview with Dan Eddy, *supra* note 203.

206. The specific words of the Act prioritize funds for child abuse prevention and treatment, but some broader interpretations for the term "child abuse" are available. See 34 U.S.C. § 20103(a)(2)(A) (2018).

207. *Id.*

208. Complete survey data is archived with the author.

209. See, e.g., Illinois, OFFICE FOR VICTIMS OF CRIME, <https://ovc.ncjrs.gov/ResourceByState.aspx?state=il> (last visited Mar. 24, 2019); VOCA, IND. CRIMINAL JUSTICE INST., <https://www.in.gov/cji/2393.htm> (last visited Mar. 24, 2019); Texas, OFFICE FOR VICTIMS OF CRIME, <https://ovc.ncjrs.gov/ResourceByState.aspx?state=tx> (last visited Mar. 24, 2019).

available, accessibility is hindered by the deficiencies in regulation and the distribution of information to the public. Thus, an increased burden falls on the underfunded and unequipped Victim Compensation programs.

To add insult to injury, the process of conducting the survey has unearthed an abundance of technical difficulties that obscure the access to the information required in order to obtain available services and resources. We repeatedly encountered difficulties in identifying the agency responsible for providing services in each of the surveyed categories as well as difficulties in locating the specific officials within the agencies who held the relevant information. Lack of transparency of contact information for relevant public servants (phone numbers and email addresses) was a reoccurrence in many states. The lack of transparency in contact information of government agents was justified by some as a security measure, to protect agents from threats.²¹⁰ While the physical safety of government agents is of vital importance, the safety measures enforced should not be ones that compromise the level of service and accessibility provided to vulnerable populations, especially when the means of contact are not face-to-face (*i.e.*, phone or email). Furthermore, even once the required contact information was obtained, we often experienced lack of responsiveness from the side of relevant state officials.²¹¹ Phone contact frequently proved to be futile as the caller seeking information was transferred from one person to another until reaching a dead end (usually a voicemail, full to capacity). Once again, the most notable difficulties were experienced in the collection of data on children affected by parental incarceration, where in some states, up to five different agencies had to be contacted in order to obtain and confirm the needed information. Due to such access-to-information barriers, the compilation of the survey data included over a full year of persistent and repeated attempts.

Imagine a child in desperate need for assistance to overcome trauma in this environment. The child must depend almost solely on a lay parent with no professional skills, and often with only minimal education and resources,²¹² to go through the daunting journey through the thorny terrains of the system. The parent will first have to gain awareness and understanding that the child is in need of external assistance in relation to his or her exposure to crime. Then, the parent

210. Interview with Dan Eddy, Exec. Dir., Nat'l Ass'n of Crime Victim Comp. Bds. (June 28, 2017) (on file with author).

211. It should be duly noted that there were also many states in which state officials were extremely responsive and cooperative, provided a wealth of helpful information, and assisted in locating additional sources of information.

212. See LISTENBEE JR. ET AL., *supra* note 3, at 34 ("Although no community is untouched, the epidemic of children's exposure to violence does not play out evenly across the country. Children living in poverty are far more likely to be exposed to violence and psychological trauma, both at home and in the surrounding community. Compounding the problem, economically impoverished families and communities typically lack the resources needed to protect children."); Carol B. Cunradi et al., *Neighborhood Poverty as a Predictor of Intimate Partner Violence Among White, Black, and Hispanic Couples in The United States: A Multilevel Analysis*, 10 ANNALS OF EPIDEMIOLOGY 297 (2000); Lisa A. Goodman et al., *When Crises Collide: How Intimate Partner Violence and Poverty Intersect to Shape Women's Mental Health and Coping?*, 10 TRAUMA VIOLENCE ABUSE 306 (2009); Lin Huff-Corzine et al., *Deadly Connections: Culture, Poverty, and The Direction of Lethal Violence*, 69 SOCIAL FORCES 715 (1991).

will require some level of cognizance that some form of assistance that suits the child's needs might be available out there. The parent will have to verify whether their child meets the varying and unpredictable eligibility criteria for available services. To do that, the parent must uncover which agency in their state or municipality is charged with providing the needed service. Undeterred by many shutting doors, the parent will have to spot the specific position within the agency that processes the coveted information. They then must proceed on a quest to find out how to contact the individual holding this position—who, despite being entrusted to serve the public, their contact information is likely to be buried under layers of bureaucracy and pretty websites that contain very little substance. What are the odds that the vulnerable child, despite the parent's best intentions, will obtain this vital assistance that will help him or her find the path towards recovery?

The suspicions that the aforementioned cumulative systemic flaws impact utilization of the available services and resources were substantiated by the astonishingly low claim rates, the survey revealed.²¹³ It should be disclaimed that the reporting systems of most states do not allow for a breakdown of data according to the categories of our survey.²¹⁴ As a result, the numbers obtained are either from states with more sophisticated data systems or those who agreed to hand count the cases for the benefit of the survey. Only ten states provided claim rate data and provided it only for part of the surveyed categories. Thus, the available figures should be considered anecdotal, and although telling and indicative, cannot be construed as conclusive evidence.

213. Complete survey data is archived with the author.

214. Interview with Dan Eddy, Exec. Dir., Nat'l Ass'n of Crime Victim Comp. Bds. (Feb. 25, 2016) (on file with author).

TABLE 1

State	Category	Claims in 2015
Arizona	Exposure to Family Crime	35
California	Exposure to Community Crime	35
Iowa	Exposure to Family Crime	21
Kentucky	Exposure to Family Crime	0
	Exposure to Community Crime	0
	Parental Victimization	0
Maine	Exposure to Family Crime	0
Montana	Exposure to Family Crime	15
	Exposure to Community Crime	0
Nebraska	Exposure to Family Crime	1
	Exposure to Community Crime	0
Nevada	Exposure to Family Crime	0
Virginia	Exposure to Family Crime	0
West Virginia ²¹⁵	Exposure to Community Crime	0

These numbers are particularly astounding considering the fact that more than half of the minor children living in the United States today are estimated by empirical studies to be affected by the Triple-C Impact in one form or another each year.²¹⁶ There could be many, more benign, reasons for low claim rates. The affected child or parent may not fully comprehend the severity of the harm endured and the long-term implications of avoiding treatment. Some are able to obtain services elsewhere through medical insurance, urgent care, or child protective services. Others are disinterested in obtaining assistance from government agencies due to negative past experiences or general distrust common to marginalized communities.²¹⁷ Yet one can only wonder whether these persistent and recurring system design flaws and administrative roadblocks are not entirely coincidental, and they may be the manifestation of political forces aiming to disincentivize the utilization of resources in order to generate some level of short-

215. See LISTENBEE JR. ET AL., *supra* note 3, at 3.

216. *Id.* For more on the prevalence of the Triple-C Impact in society, see Gilad, *Snowball Effect*, *supra* note 3.

217. These are some factors that explain general low claim rate for victim compensation assistance, which are estimated to steadily stand at approximately 10% in most states. Interview with Dan Eddy, *supra* note 210.

term fiscal savings. Unfortunately, an evidence-based examination of the problem indicates that such short-term savings are likely to result in epic long-term costs borne by taxpayers and society. This is explained in Part VI.

V. POLICY IMPLICATIONS

The presented survey offers the first-ever attempt for accurate national-scale mapping of the policies and resources at the disposal of Triple-C-Impacted children. As such, it provides a unique perspective on the macro- and micro-level, which can serve as an invaluable tool for any attempt to enhance our response to the Triple-C Impact national crisis for the benefit of both the affected children and society as a whole.

First, the survey results can serve as a resource in the hands of service providers and policy makers in the field, at the state and national levels. The survey allows access to methodically compiled knowledge as to the existence of services for each category of affected children under each jurisdiction, the exact scope of eligibility, the government agency charged with distribution of resources and eligibility assessment, and accurate references to the governing laws and policies. This information can be used to improve and maximize the ability of service providers and advocates to assist affected children and enhance their referral capabilities. It may also assist in interagency collaboration and coordination as each agency can gain a better understanding of what the others are doing. On the policy level, the information the survey provides illuminates existing gaps that require attention when devising policy amendments and legislative proposals. It can also facilitate interstate collaborations and provide opportunities to learn from experiences already gained in states where more elaborate child-specific policies and more inclusive eligibility criteria are practiced.

Second, the findings can direct our efforts towards devising responses to the problem in a more effective and targeted manner. The original hypothesis assumed that the core of problem lay in statutory lacunas that prevented formal recognition for many categories of affected children and restricted eligibility criteria.²¹⁸ This underlying assumption would have directed efforts towards legislative initiatives to assure recognition to all Triple-C Impact categories, expansion of statutory definitions, and channeling fiscal resources and grants to fill the identified gaps. An analysis of the survey results demonstrates that such solutions may not target the essence of the problem and hence are unlikely to breed effective results.

A careful analysis of the survey data leads to the conclusion that the heart of the problem lies in lack of cooperation and coordination between stakeholders in the field, significant gaps in knowledge among key players, and technical difficulties and flaws in system design that impede access to information and resources. Following these critical leads, a more effective strategy may be to focus on developing mechanisms for fluent communication among the key players in

218. See *supra* note 164 and accompanying text.

the field, encouraging and fostering interagency collaborations, devising best practices promoting standardization and coherent use of terminology across the board, establishing identification systems to alleviate the dependence on parental initiative, correcting the technical difficulties obscuring access to services, and designing new methods to improve the accessibility of the available policies and services. Such actions must also be accompanied by efforts to assure that the capacity of the existing system can accommodate the expected increase in claim rates and rise in service utilization.

One category of affected children stands apart in the survey results: children affected by parental incarceration. For this particular category, the original hypothesis of impeding statutory gaps was found to bear truth.²¹⁹ Consequently, for this category, addressing the statutory lacuna and filling the identified gaps in state laws and statutory distribution of funds through legislative actions may be the most applicable course of action towards the desirable outcome.

Taking such an evidence-based route, relying on survey findings allows us to custom fit the solution to the specific nature and characteristics of the problem at hand in a manner that is expected to produce more constructive and efficient outcomes.

VI. WHY CRIME?

Reading through this Article must beg the question: what is so special about crime? It is intuitive to assert that childhood is a vulnerable period in the life of an individual. This vulnerability overexposes children not only to harm induced by crime but also to harm resulting from many other life adversities, such as poverty, familial instability, natural disasters, illnesses, and many others.²²⁰ Why should we isolate and focus on the negative effect of crime on the child?

Although all the above-listed weighty social problems have the potential to be highly damaging to children, and justify prioritized attention and action, there are several factors that differentiate crime from the others.

While the aforementioned compartmentalized examination of the problem thus far prevented us from gaining accurate measures of the problem, existing indicators provide a strong sense of its mammoth magnitude. As determined by the Attorney General Task Force, the problem is “not limited to one community or one group of children. It occurs among all ethnic and racial groups; in urban, suburban, and rural areas; in gated communities and on tribal lands.”²²¹ Existing data show that approximately two out of every three children are affected.²²² “Of the 76 million children currently residing in the United States, an estimated 46 million” can expect to have their lives touched by violence and crime this year.²²³

219. See *supra* Section III.D.

220. See *supra* Part II.

221. LISTENBEE JR. ET AL., *supra* note 3, at viii.

222. *Id.* at 3.

223. *Id.*; see also Finkelhor, *supra* note 187, at 9–13; FINKELHOR, *supra* note 11, at 1; David Finkelhor et al., *Prevalence of Childhood Exposure to Violence, Crime and Abuse: Results from the National Survey of Children's Exposure to Violence*, 169 JAMA PEDIATRICS 746 (2015); David Finkelhor et al., *Trends in Childhood*

One in every ten children in the U.S. experiences more than one type of crime exposure and thus is considered a poly-victim.²²⁴ These astonishing numbers include only children affected by direct victimization, exposure to family crime, and exposure to community crime. They do not include children with victimized caregivers and those affected by parental incarceration, who are also included in this study under the Triple-C Impact.

Studies in the field of medicine and social science provide strong and convincing evidence of the harm inflicted on children affected by crime exposure.²²⁵ Although almost no studies encompass all the Triple-C categories, existing research provides ample evidence, outlined in this Article, as to the strong correlation between crime exposure and a broad range of injurious symptoms.²²⁶ It also provides insightful explanations about the physical and psychological mechanisms and processes underlying the caused harm.²²⁷ This invaluable information and data are largely ignored by policy makers in the criminal justice arena and are not sufficiently accounted for in order to improve the efficacy of devised solutions.²²⁸ In fact, in this specific field, there is strong evidence to show that there are very effective tools which, if applied correctly, can significantly alleviate the damaging effect of childhood crime exposure.²²⁹ The wealth of informative evidence, coupled with the availability of effective resources in this field, provides a unique opportunity to make a significant difference with positive outcomes.

Another strong data point in this field is the massive cost of the problem to the state and our society in general. Again, the lack of inclusive examinations of the Triple-C Impact problem in its entirety thus far prevents us from gauging the full cost of the problem. Nevertheless, the existing partial estimates are already

Violence and Abuse Exposure: Evidence from Two National Surveys, 164 ARCH. PEDIATRIC ADOLESCENT MED. 238 (2010); David Finkelhor et al., *Violence, Crime, and Abuse Exposure in a National Sample of Children and Youth: an Update*, 167 JAMA PEDIATRICS 614 (2013).

224. LISTENBEE JR. ET AL., *supra* note 3, at 5; Turner et al., *supra* note 149, at 323.

225. See, e.g., *infra* note 230 and accompanying text.

226. See *supra* Part III.

227. See *supra* Part IV.

228. See *supra* Part V.

229. PATRICIA V. HORN & ALICIA LIEBERMAN, *Using Dyadic Therapies to Treat Traumatized Children*, in TREATING TRAUMATIZED CHILDREN 210–224 (Danny Brom, Ruth Pat-Horenczyk & Julian D. Ford eds., 2008); Alicia L. Lieberman, Chadra. G. Ippen & Steven Marans, *Psychodynamic Therapy for Child Trauma*, in EFFECTIVE TREATMENTS FOR PTSD 370, 370–387 (Edna B. Foa et al. eds., 2009); LISTENBEE JR. ET AL., *supra* note 3; Cohen et al., *supra* note 152; Ippen et al., *supra* note 156; Ko et al., *supra* note 152; ADAMS, *supra* note 10, at 8–11; Lisa Pilnik et al., *Victimization and Trauma Experienced by Children and Youth: Implications for Legal Advocates*, OFFICE OF JUVENILE JUSTICE DELINQUENCY PREVENTION: MOVING FROM EVIDENCE TO ACTION (Sep. 2012), http://www.ojjdp.gov/programs/safestart/IB7_VictimizationTrauma_LegalAdvocates.pdf.

overwhelming.²³⁰ The Attorney General Task Force report has described the financial costs of the problem as “astronomical.”²³¹ It acknowledged the financial burden it placed on public systems, including child welfare, social services, law enforcement, juvenile justice, and, in particular, education.²³² This is combined with the staggering loss of productivity over children’s lifetimes.²³³ To provide a sense of the magnitude of the sums involved, the annual costs of the public health system alone are estimated to range from \$333 billion to \$750 billion.²³⁴ One study calculates the annual national costs of only direct victimization, without consideration of the remaining four Triple-C Impact categories, at \$94,076,882,529.²³⁵ Another study evaluated the lifetime costs per child to be \$210,012 to \$1,258,800 (in 2010 dollars).²³⁶ Thus, effective resolution of the problem provides an almost unparalleled opportunity for savings in fiscal and social costs.

Lastly, governments are considered to have unique obligations towards their citizens where crime is concerned, in comparison to other social issues. This is particularly significant in the case of the U.S. libertarian and capitalist-oriented political system, where the state has very limited responsibilities towards the individual,²³⁷ in comparison to more socialist and welfare-based political systems.²³⁸ The emphasis on government responsibilities in the criminal justice arena can be traced to the philosophical conceptualization of the state and its sovereignty, which was fundamentally based on the state’s obligation to physically protect its constituents. Since the time of Thomas Hobbes and Jean-Jacques Rousseau, this obligation to protect was associated with the government’s responsibility to operate the criminal justice system and protect constituents from harmful criminal activity.²³⁹ From this responsibility to protect also stems the role of the state as the prosecutor, representing “the people” in most criminal proceedings. Although the issue of government responsibility towards citizens is

230. THERESA DOLEZAL ET AL., HIDDEN COSTS IN HEALTH CARE: THE ECONOMIC IMPACT OF VIOLENCE AND ABUSE (2009); Xiangming Fang et al., *The Economic Burden of Child Maltreatment in the United States and Implications for Prevention*, 36 CHILD ABUSE & NEGLECT 156 (2012); Kathryn E. McCollistera, Michael T. French & Hai Fang, *The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation*, 108 DRUG ALCOHOL DEPENDENCY 98 (2010); ADAMS, *supra* note 10, at 1; Suzette Fromm, *Total Estimated Cost of Child Abuse & Neglect in the United States: Statistical Evidence*, ISSUELAB (Jan. 1, 2001), http://www.issuelab.org/resource/total_estimated_cost_of_child_abuse_neglect_in_the_united_states_statistical_evidence; Patrick Sidmore, *Economic Costs of Adverse Childhood Experiences in Alaska: The Price of Not Intervening Before Trauma Occurs*, ALA. DEP’T OF HEALTH & SOC. SERV., <http://dhss.alaska.gov/abada/aceak/Documents/ACEsEconomicCosts-AK.pdf> (last visited Mar. 24, 2019).

231. LISTENBEE JR. ET AL., *supra* note 3, at 5.

232. *Id.*

233. *Id.*

234. *Id.* at 28.

235. Fromm, *supra* note 230, at 3.

236. Fang et al., *supra* note 230, at 156, 160–61.

237. See, e.g., Sarwat Jahan & Ahmed Saber Mahmud, *What Is Capitalism?*, 52 FIN. & DEV. 44, 44 (2015); 2018 Platform, LIBERTARIAN PARTY, <https://www.lp.org/platform> (last visited Mar. 24, 2019).

238. David Gilmour, *What Is Socialism?: Everything You Need to Know*, DAILY DOT (Oct. 18, 2018, 2:30 PM), <https://www.dailydot.com/layer8/what-is-socialism-definition>.

239. THOMAS HOBBS, LEVIATHAN 144 (Edwin Curley ed., 1994); JEAN-JACQUES ROUSSEAU, ON THE SOCIAL CONTRACT 166 (Donald A. Cress ed., Donald A. Cress trans., Hackett Publishing Co., 2011).

a highly complex and controversial one, we can identify fundamental principles that establish heightened state responsibilities in the area of protection of the citizens from crime-induced harms.

The critical combination of level of harm, extensive prevalence and scale, massive financial burden, availability of evidence-based effective remedies, and the heightened state obligations in this field calls for urgent attention to this issue and provides an unparalleled opportunity for effective, positive change.

VII. CONCLUSION

Following the fundamental principles of the evolution of legal problems, this Article takes the first step in naming a “new” problem. Such a seemingly simple and technical task of assigning a title to a problem may at first glance appear mundane. The effect, however, goes much deeper than the title. Naming a problem helps conceptualize a recurring phenomenon as problematic and injurious and shines a spotlight on its existence and the harm it inflicts, so it can no longer be ignored.²⁴⁰ It provides a point of reference that enables us to raise awareness, initiate public discussion, and make coordinated and cohesive efforts to address the problem—the same type of efforts that are so direly missing where the Triple-C Impact is concerned.

The naming process also facilitates the defining of the scope and boundaries of the problem. In the case of the Triple-C Impact, it allows us to cluster together a group of adverse elements that were previously looked at in isolation, so we can see the inseparable common grounds and interconnections that tie them together cohesively into one integral problem. Only once this inclusive perspective is developed through the naming process, the true extent of the problem can be understood, its root causes identified, and its full effect realized.

Coining the Triple-C Impact terminology highlights a paramount problem that affects millions of children all around us. It maims the bodies, souls, and spirits of those whom we ought to protect most. But its effect goes far beyond the individual children it touches. With millions of children across the nation untreated and prevented from conducting a healthy and productive lifestyle—with heightened risks for substance abuse, criminal behavior, and repeat victimization—community safety is inevitably compromised, and public funds are unnecessarily burdened.²⁴¹ Thus, none of us are spared from its violent claws.

This Article takes the first step in providing a realistic conceptualization of the problem, integrating legal tools with scientific findings. By mapping the existing gaps in the system, and pinpointing the underlying causes of the prevailing deficiencies, the study provides initial directions to possible solutions to the problem and gives us a valuable opportunity to take action that will improve outcomes for millions of children across the nation and our society as a whole. The next step to be undertaken in the path towards an effective response is an

240. See Felstiner et al., *supra* note 1, at 635.

241. See, e.g., Mills, *supra* note 28, at 481–86; Putnam, *supra* note 3, at 2; see also ADAMS, *supra* note 10, at 1, 5.

economic analysis that will evaluate the aggregate costs of the Triple-C Impact problem to the state and to our society. Relying on these two pillars, an operative and financially sound action plan can be developed to alleviate the devastating harms caused by this sweeping problem.²⁴²

242. For continuing research of the prevalence and outcomes of the Triple-C Impact, see Gilad, *Snowball Effect*, *supra* note 3.

APPENDIX: 50-STATE SURVEY RESULTS

TABLE 1: STATE-BY-STATE TRIPLE-C IMPACT STATUTORY RECOGNITION BY CATEGORY (AS OF 2016)

The table exemplifies which of the Triple-C Impact categories are statutorily recognized in each of the fifty states and the District of Columbia. The table presents the results in a 0/1 form. “1” is logged where the state’s law recognizes the category and provides eligibility for therapeutic services or compensation for children under the category. “0” is logged when no statutory recognition is available for the category in the state. Blank logs were placed when information was unavailable.

STATE	Direct Victims: Child Specific Victim Rights Act/Provision	Family Violence	Community Violence	Parental Victimization	Parental Incarceration	Data on Parental status of Inmates	Total
Alabama	0	1	0	1	0	1	3
Alaska	0	1	1	1	0	0	3
Arizona	0	1	0	0	1		2
Arkansas	0	1	0	1	0	0	2
California	0	1	1	1	0	0	3
Colorado	1	1	0	1	0	0	3
Connecticut	0	1	0	1	0	1	3
Delaware	1	1	0	1	1	0	4
Florida	0	1	1	0	0	1	3
Georgia	0	1	1	1	0	1	4
Hawaii	0	0	0	0	0	1	1
Idaho	0	1	0	1	0	0	2
Illinois	0	1	1	1	0	1	4
Indiana	0	0	0	0	0	0	0
Iowa	0	1	0	1	0	1	3
Kansas	0	1	0	1	0	0	2
Kentucky	0	1	1	1	0		3
Louisiana	0	1	0	1	0	0	2
Maine	0	1	0	0	0		1
Maryland					0	0	0
Massachusetts	0	1	0	0	0		1
Michigan	0	1	0	1	0	0	2
Minnesota	1	1	1	1	0		4
Mississippi	1	1	1	1	0		4
Missouri	0	1	0	1	0	1	3
Montana	0	1	1	0	0	0	2
Nebbraska	0	1	1	0	0		2
Nevada	0	1	1	0	0	1	3
New Hampshire	0	1	0	1	0	1	3
New Jersey	0	1	0	1	0	1	3
New Mexico	0	1	1	1	0	1	4
New York	1	1	1	1	0	1	5
North Carolina	0	0	0	0	0	1	1
North Dakota	1	1	1	0	0		3
Ohio	0	1	0	0	0	1	2
Oklahoma	0	1	0	0	0	0	1

Oregon	0	1	1	0	0	1	3
Pennsylvania	1	1	1	1	0		4
Rhode Island	1	0	0	0	0	0	1
South Carolina	0	1	1	1	0	1	4
South Dakota	0	1	1	1	0		3
Tennessee	0	1	0	0	0	0	1
Texas	0	1	0	1	0	0	2
Utah	1	1	0	1	0	1	4
Vermont	0	1	1	1	1	0	4
Virginia	0	1	0	0	0	0	1
Washington	1	1	1	0	0	1	4
West Virginia	0	1	1	1	0	0	3
Wisconsin	1	0	0	0	0	1	2
Wyoming	0	1	1	1	0	1	4
Washington DC	0	1	0	1	0		2
Total	11	45	22	31	3	21	Average 2.61

